Received July 15.

(23) 7P
37293
565-8

No 197 (Mexico Consular)

STATEMENT READ TO THE COMMITTEE
JUNE 22, 1840 ON THE CASE OF
N. P. TRIST, FILED IN ENVELOPE
NO. 87.

July 9. 1840.

Sir,

In my No. 105, under date Dec.r 9. 1839, I said, "I now transmit some documents which were designed for use in the Report which it had long been my purpose to make, in order that the government might be possessed of the truth concerning my doings here, in the connected view wherein it is indispensable that they should be considered, whether for the purpose of forming a judgment in regard to my conduct, or what is far more important, as a basis for that legislative & executive action which justice and the character of our country's flag so loudly call for.

× × × × ×

× × × ×

"Of the seven documents herein enclosed, the three first afford some idea of the state of things which prevailed at this post (as it but too unques-

tion-

Received July 15.

(23) 7L
37293
565-8

No. 137. (Havana Consulate)

Washington, July 9. 1840.

Hon: John Forsyth,
Secretary of State.

Sir,

In my No. 105, under date Dec.r 9. 1839, I said, "I now transmit some documents which were designed for use in the Report which it had long been my purpose to make, in order that the government might be possessed of the truth concerning my doings here, in the connected view wherein it is indispensable that they should be considered, whether for the purpose of forming a judgment in regard to my conduct, or what is far more important, as a basis for that legislative & executive action which justice and the character of our country's flag so loudly call for.

× × × × ×

× × × ×

"Of the seven documents herein enclosed, the three first afford some idea of the state of things which prevailed at this port (as it but too unques-

tion=

tionably does, to a greater or a less extent, in every
port of the world where the american flag is seen)
at the time when I took charge of this Consulate.
The other four afford an idea of the state of things
that, in regard to the same subject, prevails now.

"These are the two ends of the chain.
The intermediate links may be presented on some
future occasion of greater leisure."

Those intermediate links, I now
transmit. The field of service to which they relate
is beyond comparison the most important and the
most arduous of all connected with the post en=
trusted to me. It is by no means, however, the
only one in which I have been called upon to
act; and inasmuch as my official character
generally has been made a topic, not only of
sweeping obloquy but of calumnious specifi=
cation, imputing every bad quality which a man
in my position could disclose, I have added a
selection of documents calculated to afford
an idea of the nature of Consular duties under
divers aspects, and of the manner in which they
have been by me discharged.

Besides some further extracts from
the communications of my predecessor in office,
the late William Shaler, (sent as an Appendix

to

to Enclosure No. 1. in my No. 105, whereof the present No. is a Sequel) I enclose,

Illustrations of the mode wherein my duties have been discharged.

Part 1.

Enclosures, numbered from 1. to 24: Nature of the cases arising from the prevalence of desertion. Exertions to break up the practice. How it was broken up.

Part 2.

Enclosures, numbered from 25. to 33.: Refusal to countenance Ship-masters in defying the local authorities; or to yield to their demand for Consular interference when improper.

Part 3.

Enclosures, numbered from 34. to 41.: Attitude towards the Authorities, under cause of complaint.

Part 4.

Enclosures, numbered from to : Pier or Landing Place for Ships' boats at Havana.

Part 4.

Enclosures, numbered from 42. to 46.: Attitude towards officers of Foreign Powers, under cause of complaint.

Part 5.

Enclosures, numbered from 47. to 50. : Pier or Landing Place for ship's boats at Havana.

Part 6.

Enclosures, numbered from 51. to 53. : Attention to Commercial interests.

I am, Sir, very respectfully,
Your Obed't.
S. P. Hill.

Havana Consulate No. 137. Enclosure No. 1.

To the Captain General.

Consulate of the U. S.
March 29. 1835

But for the pressing duties which have crowded upon me since my arrival here in the month of December last, and some loss of time caused by sickness, I should long since have executed my design of inviting the attention of H. E. to the abuses which prevail in this port in relation to seamen belonging to merchant vessels; abuses, which besides causing much trouble to the subordinate authorities of the Port and even to H. E., as I have several times had the mortification to perceive, subject the captains to great inconvenience and to immense expense.

To these evils the vessels of the U. States are particularly subject, as well from their greater numbers as from the peculiarly reckless character of their crews. The mischiefs resulting from them have been growing worse and worse every day; until they have reached a point which makes many of our most respectable captains dread to visit this port, as me

where they are almost sure to have incalculable trouble and daily difficulties with their men, and to incur expenses which are so great as to make a very sen-sible addition to the cost of navigating their vessels.

This state of things calls loudly for the in-tervention of that spirit of efficacious reform which so strongly characterises the administration of H. E.; and before which the most deep rooted abuses disappear with a suddenness that excites general surprise and general admiration. I therefore take the liberty to sub-mit to H. E. the following remarks; and to enclose as a sample of the effrontery of the sailor boarding-house Keepers, the statement of one case which has recently come under my immediate notice, relating to the ex-penses incurred by Captain Stow of the Brig Emerald of New York.

By a Regulation established by one of H. E. predecessors, on the 12th: of January 1824, it is presenb-ed with regard to the eating and liquor shops and boarding-house keepers, that they shall not admit into their houses any mariner, nor give him any thing on trust, much less allow him to pass the night there, without the previous knowledge and written consent of the master of the vessel to which such sailor may belong. And on the 6th: February 1827 another decree emanated from the same authority attach-

=ing heavy penalties to all contraventions of the exist=ing regulations on the subject.

Nevertheless, the evil has not been cured, not even checked, on the contrary, the misconduct of those who make a trade of causing men to desert from their vessels, has only been becoming more and more systematic, and more and more audacious. I am persuaded, too, that nothing can have the desired effect, but a regulation which shall effectually at=tach a sufficient penalty to the mere fact of giving reception to any mariner, be it for ever so short a time, unless said mariner shall be provided with a written permit from his captain, as is now re=quired. but vainly required ~~tha~~ by the Regulation. The question is, how can this point be effected? It is evident, that the keepers of boarding houses and eat=ing and drinking shops cannot possibly be acquaint=ed with the handwritings of the captains of vessels. For this reason alone, the system of written permits must continue to be ineffectual, until it shall be required that each permit, besides being signed by the captain, shall be in a particular form, and bear some mark whereby it's authenticity can be readily known. This requisite could be effectually supplied by the signature and seal of the Consul of the nation to which the vessel may belong.

There is another reason for requiring the consular attestation to such permits, which is of great force with regard to the vessels of the U. States, and probably of other nations also. But I do not pretend to speak for others, and my remarks must be understood as having reference to vessels of the U. States only. The reason to which I allude is this: The laws of the U. States are such that no seaman shipped in the U. States, can be lawfully discharged in a Foreign port from an American vessel without the consent of the consul, who is thereupon bound to take care of him and superintend his conduct; and any Captain who violates this rule, exposes himself to heavy penalties. Nevertheless, I am sorry to say, it is frequently disregarded; and this is unquestionably one of the causes of the number of vagabond American sailors who infest this port and give so much trouble to the authorities. I have used all possible vigilance on this point and have partially succeeded in checking the illegal practice. But notwithstanding all that I can do, it must continue to prevail to a considerable degree, so long as American Sailors can with impunity be received and harbored clandestinely in houses in this place, without the possibility of my knowing any thing about it. Hence the importance of the consular attestation to permits; whereby the Consul

will

will be enabled to exercise a supervision over the conduct of Captains in granting said permits.

Without any further remarks, I will beg leave to request Y. E's consideration of the enclosed rules, which I take the liberty to offer as suggestions of what has occurred to me as likely to be effectual in eradicating abuses which are full of all sorts of evil consequences; whereby our seamen are debauched and plundered, and the good order of the port and city so frequently and seriously interrupted; and which very much increase the expenses of our navigation, and therefore operate as a heavy tax upon the commerce of this island with the U. States. In drawing up these regulations, I have determined points which it might seem that it would have been more respectful in me to leave entirely to Y. E. to settle. For instance, I have fixed the amount of the fine in every case; whereas I might have left these in blank, to be filled up by Y. E. But as the whole is offered as mere suggestions, there will not be seen in one part more than another, any departure from that sincere respect with which I always approach Y. E. - Having given to the subject much consideration, more than it is possible for Y. E. to bestow upon it, occupied

as you are with the thousand things which every day must bring forth to press upon Y. E's attention, I have considered, among other things, in every instance, what amount of fine was calculated to prove effectual, by counteracting the temptation to offend by the amount to be gained by the mal-practice against which that fine is directed. This has been my reason for determining the fines and other deteries of a like nature.

Havana Consulate No. 137. Enclosure No. 2.

To the Captain General.

Consulate of the U. States,
Havana, March 29th 1835.

In my oficio to Your Excellency, of this date, I refer to the case of Captain Stow, of the American brig Emerald, which is as follows.

On the 8th day of January last, Captain Thomas Stow presented himself at this Consulate, stating that four of his crew had, several days before, deserted from his vessel; that one of them had been that morning arrested in the boarding house kept by a man named Castell, and the other deserters were understood to have left said house and to be on board of some vessels in the harbor. - Captain Stow further stated that the effects of the deserter who had been arrested were in the house of the said Castell, and that a note from me to the Alcalde was necessary to enable him to recover them.

Accordingly I addressed a note to Don Francisco Chacon y Calvo, Alcalde Ord. de 1a. Eleccion, in which note I requested that he would

give to Captain Stow all the aid necessary to recover the said effects, and I also expressed the hope that the keeper of said boarding house would be visited by his authority with the heaviest penalties for having harbored the said deserter. Besides this note to the Alcalde, I gave to Captain Stow one addressed to the Captain of the Port, requesting him to give ~~[illegible]~~ all the aid necessary to arrest the other deserters.

A few days after, I was informed that the Alcalde had decided, that the effects of the deserter arrested in his house must be given up by Castell; but that he had excused him from paying the fine for having entertained said deserter! (a)

Knowing that the desertion of men from the ships in this harbor is reduced to a regular system on the part of those who carry it on, and that it is very difficult indeed to arrest a deserter in a boarding-house, and thus prove the fact against the landlord, I was surprised and mortified to hear of a decision on the part of the Alcalde, so obviously calculated to encourage this class of men, and to add to the audacity which already characterizes them.

In a few days more, the effects which it was

(a) ~~[illegible]~~ The note to be introduced here will be found on p. 8. The copyist will introduce the note at here which is the right place.

obvious, must necessarily flow from this decision, manifested themselves in this very case. Captain Stow came to me again, and said that Castell refused to give up the effects of the deserter, unless the said Captain should first pay a bill of expences of the mariners from his vessel who had staid at his house!

Such was the first fruit of the Alcalde's decision! To estimate it properly it is necessary to compare this audacious demand made by Castell, with the decrees on this subject of Your Excellency's predecessors, of January 12, 1824, and February 6, 1827.

I was, however, not sorry to hear of this audacity; believing that it must have the effect of bringing down upon Castell at last, the punishment which, agreeably to the said decrees and to justice, he should have been made to feel in the first instance. I told Captain Stow to go again to the Alcalde; and he did so.

The next thing I heard on the subject was by means of a note dated 20 Jan.y 1835 (which I enclose) from the Alcalde, informing me that he had decided that Captain Stow should pay four dollars to Castell for the expenses of the two mariners who had stopped at his house!

—

On every occasion that has presented itself, I have inculcated upon the Captains of vessels of the United States, the duty of yielding implicit obedience and conformity to the authorities of this place. I have told them always, that even where they believe themselves to be illegally or unjustly treated, the first thing to be done in every case is to conform to the decisions of the authorities; and that until this was done, I should refuse to meddle with their business, or to appeal on their behalf, to the higher authorities. On this principle, when the Alcalde's note was brought to me at dusk on the evening of the 20th January, I told the bearer, who was, I believe Castell himself, that the Alcalde's decision should be conformed to, and the money paid: but I gave him notice that the case should be brought to the attention of His Excellency the Captain General.

It was my intention to do this immediately; but I was taken sick soon after, and before I was perfectly recovered the arrival of the messenger from Washington, gave me, for the moment, other occupations.

Having gained this triumph also, Castell

felt

felt encouraged to persevere. Under this second decree of the alcalde, ordering that the effects of the mariner should be given up to Captain Stow, said effects were again demanded of said Castell, and he again refused to give them up, unless his account, amounting to ten dollars and 4 reals, for boarding and lodging said mariner and his companions, should be first paid. It appearing useless to resist this exaction, the only effect of doing so having been to give him trouble and swell his expenses, Captain Stow commissioned a resident of this city by the name of Muller, to do so; and it was paid before two witnesses, whose names are now on the original account, which I enclose. — I also enclose a statement showing the whole expense to which Captain Stow was put on this occasion. — By Castelli's own account it appears, that two of the deserters from the brig Emerald were entertained at his house for several days, and that a third sailor (no doubt another of the deserters) was with them there during three nights. Agreeably to the regulation of January 12, 1824, Castell became responsible for their expenses, besides all the damages incurred by Captain Stow.

But instead of suffering any thing, he succeeded in making Captain Stow pay the expences of the sailors; and Captain Stow, instead of being indemnified, as the regulation requires, was put to an expence of more than ninety dollars, besides the mortification of seeing such encouragement given to people who make it their trade to seduce sailors to desert. This, too, was all a pure loss to Captain Stow; for the men had not yet served long enough to pay for the money which had been advanced to them when they engaged at New York.

I will only add that, understanding that a Comisario de Barrio was very active in protecting Castell on this occasion, and defending him before the Alcalde, I inquired his name, and was told that it is Antonio Alvarez. — It appears, also, that there are two men of the name of Castell engaged in said boarding-house, or that the same man goes by two different names, for in the note addressed to me by the Alcalde, he is called Manuel, whereas the enclosed account is signed by Eugène. — Since this occurrence I am informed that a number of deserters have, as might be expected, been staying at said house.

Statement of the Expenses caused by the desertion of three men, (who were retaken) from the brig Emerald of New York, Captain Thomas Stow.

Paid reward for apprehending Smith (deserter)	$ 4. 2
Paid Soldiers employed in same	2. 4
Paid for soldier and boat to take Brown and Lewis (deserters) from vessels in the harbor	1. 4
Paid order of the Captain of the port for imprisonment	5. 4
Paid for permit and boat to go for deserters	2. 4
Paid expenses of imprisonment of deserters	21. -
Paid agreeably to the Alcaldes decision in favor of Castell, for board of deserters	4. -
Paid expenses at Alcaldes	2. 6
Paid account of Eugene Castell for board of deserters,	10. 4
Paid hire of men on board, rendered necessary by the absence of the deserters	40. -
	$ 94. 4

(a) ~~Note referred to with ***~~ To all readers of Spanish novels, or of Travels in Spain, the word "Alcalde" has been rendered familiar by the abundance of petty judicial annoyances with which it is ever found associated. The present case affords an idea of the vexation attending all intercourse with them. The vexations were, in regard to foreign shipping, very much curtailed by a decision of the Tribunal of the Captain Generalcy of the 4th of March 1837; restricting the cognisance of cases between masters of foreign vessels & their crews, to itself and the Captaincy of the Port, and inhibiting to all the other local authorities to meddle in any way with the subject.

N.P.T.

To the Captain General

Consulate of the U. S
Havana, April 7. 1835

This forenoon, Captain Edward Hammond of the American Ship Sara-=cen presented himself at this Consulate, to state that last night three of his crew disappeared from on board his ship, which is lying at anchor in the Port, and that on enquiring this morning of the other Sai=-lors (of whom there now remain but two of all those that he brought into Port) he was informed that the said three Seamen had been taken away between the hours of 11 and 12 last night, in a boat which had been sent alongside for that purpose by one of the boarding house Keepers in this City.—

It is generally known that many of the Comisario's are in league with the boarding house Keepers, and believing that the ordinary course of procedure

if resorted to in this instance would result in the escape of the said Seamen, and in the impunity of the man who stole them from their vessel, I have determined to address myself directly to Your Excellency, in the hope that measures will be adopted which will result in an example being made that will have salutary effects.—

Captain Hammond is now waiting with one of his seamen, who says he knows the man who sent the boat which took away the deserters last night.

To the Captain General

Consulate of the U.S.
Havana April 10, 1835

Yesterday afternoon, I had the honor to receive Your Excellency's oficio of that date on the subject of Thomas Fitzgerald, and I have to State in reply, That Captain Hammond of the Ship Saracen, who is a man of the first respectability, and deserving of entire confidence, has just left me after making the following statement.

Before he came on shore on Tuesday last, to make the complaint which resulted in the arrest of Fitzgerald, the two sailors (who are the only ones remaining of the Crew of the Saracen) had described and named the said Fitzgerald as the man who had taken away the deserters from the Ship. These two men stated to Captain Hammond, that on Sunday last, said Fitzgerald had come

on board and invited them all to desert. Two refused, and three consented; and with them three Fitzgerald arranged the plan which was carried into effect on Monday night, by the said Fitzgerald's coming under the bows of the ship in a boat, and then taking in said three deserters with their effects. If it be deemed necessary by Your Excellency the oaths of these two men can be taken to that effect. There can be no doubt, therefore, that the man now in custody under the name of Thomas Fitzgerald is guilty of the act with which he stands charged. Moreover he is himself a deserter from the Ship Druid or some other American vessel. But, as he has acted in this business only as the agent of Patrick Rourke, being the victim of the villany of said Rourke and of his own thoughtlessness, and as there is some excuse for him in the fact that this business has been going on for a long time, to the knowledge of every sailor in port, without any instance of

punishment, I will suggest to Your
Excellency that this Thomas Fitzger-
-ald be left in jail at my disposal,
so that I may send him away as
soon as an opportunity presents itself
with orders not to come to this port
again under the penalty of being
immediately seized and confined.

Havana Consulate No. 137. Enclosure No. 5.

To the Captain General

Consulate of the U. S
Havana, May 29. 1835

The American Seaman,
James Davis (or Dewes) who is the subject
of Your Excellency's note of the 20th inst, is an
obstinate fellow who refuses to engage on
board a vessel to leave the place: saying
that he had rather remain in prison. —
He wants to oblige me to take him out,
and pay his papage on board a vessel
for the U. States, which would be a very
dangerous example to our Seamen. —
I beg leave therefore to request that
Your Excellency will order that he be
set to work until he shall see fit to en-
=gage on board some vessel. When he does
so I will make use of Your Excellency's
order, putting him at my disposal. — (a)

(a) The system pursued by me in regard to Seamen who

ap=

applied to me for relief, or who, being taken up by the authorities under the law against vagrancy, were placed at my disposal with the request to send them out of the country, was this: I at once adopted them as destitute seamen, and provided for their wants. But, considering that no man has a claim to be supported or provided with a passage at public expense, if he be in good health and able to work, and there be american vessels in port wanting his services, I always made it a condition that if I could obtain a good berth for him, he should ship, and whatever clothing or board might be furnished him on my accountability should be paid for, so far as this were possible, out of the month's wages in advance which are always paid when a sailor ships.

This condition is so obviously reasonable & just, that few have been known to murmur at it. Occasionally, however, a dogged character would insist upon my indulging him in his humor to be lazy at public cost. To yield would have been to set a very pernicious example, injurious to the sailors themselves and to the shipping-interest dependent upon their services; and to entail a great expense upon the public. When a case of the sort occurred, if

the

the sailor had already been taken up, and depended upon me for his release, I would leave him in jail until cured of his fit of obstinacy. If he were at large, I would present him with the alternative of shipping or being reported by me to the authorities as a vagrant. This course proved so efficacious, that not more than half a dozen cases, if so many, have occurred during my residence at Havana, in which a sailor did not comply to soon as a berth offered for him. When men were not wanted, passages were provided for them in the first american vessel sailing for the part of our country to which they wished to return.

N. P. T.

Havana Consulate No. 137. Enclosure No. 6.

To the Captain General.

Consulate of the U.S.
June 12, 1835.

On the morning of the 8th instant Jam. Granger, lam ~~Graham~~, Captain of the American Brig Caspar Hauser, presented himself at this Consulate, and made the following declaration:—
On the night of the 6th instant, one of the crew of the said brig deserted, and on the next night Captain Granger was informed by his mate, that the same man who had taken the deserter away the night previous was then in the forecastle, trying to seduce the other men to desert also,— that he told them if they would go with him he would conduct them to a place where it would be impossible for any one whatsoever to find them. Captain Granger immediately stationed his mate so as to prevent his escape, and went to the Captaincy of the Port where he got a guard by whom the offender was secured.

I told Captain Granger to send some one to this prisoner to try to make him disclose by whom he was employed, in order that I might

lay

lay the case before Your Excellency. He has taken measures to that effect, but to no purpose, for the prisoner, who is a tailor, will not even tell his own name.* It is understood that he is a deserter from the American ship Marion, of Portsmouth.

Under these circumstances, I beg leave to suggest to Your Excellency, if it would not be useful as an example to condemn this man to hard labor for some months. Not a night passes that some American vessel is not robbed in this way of a part of her crew by men employed for that purpose by the landlords. The following declaration made at this Consulate on the 30th. of last month, by David L. Stevens, Captain of the American ship Valhalla, points at the landlord, who, so far as I can ascertain, is the most active and audacious of all in this nefarious business. — On the 27th. of May the ship Valhalla closed her register to sail the next day. On that night, two of his crew, named Nathan Mooney and Antonio Lucre were taken from his ship in a boat. — On the morning of

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* See Capt. General's oficio of the 6th July, from which it appears that his name is James Thorn — see my letter to the Captain General on the subject of this man, July 30th.

This was a mere memorandum, subsequently made for my own use. It has been copied here through mistake of the transcriber.

the said 30th Captain Stevens found both of these men at the Sailor boarding house kept by Alexandro P. Diaz in the Callejon de Sastos; and said Nathan Mooney, on being arrested and taken back to the ship, acknowledged that the boat which came and took them out of her had been sent by said Alexandro P. Diaz.

Havana Consulate No. 137. Enclosure No. 7.

To the Captain General

Consulate of the U.S.
Havana, July 30. 1835

I regret much to be under the necessity of again troubling Your Excellency on the subject of the Seaman James Thom, put by Your Excellency at my disposition, as I was informed by Your Excellency's Office of the 6th inst.

Some time last week, he consented to ship on board the American Brig Cameo, and signed the Contract to that effect; whereupon I made use of Your Excellency's order for his release. But having gone on board said Vessel, he behaved in such an outrageous manner as to make it necessary that I should cause him to be again arrested, which was done by the Captain of the Port, in whose custody he now is. His conduct on this occasion showed that there is no hope that he will behave himself until

he shall have become tired of confine-
-ment. - He swears that he will not work
on board of any Ship; that in jail he
has no work to do, and he had rather
remain there; and so long as he adheres
to this determination Your Excellency's
wish that he should be embarked with-
-out delay cannot be fulfilled. - I beg
leave therefore, to request that Your
Excellency will cause this man to be
placed among the prisoners at the
Cabaña, and be there kept at work,
until he shall come to his right senses,
when the proper steps will be taken
to send him away. - (a)

(a) See above, note to Enclosure No. 5.

N. P. T.

Havana Consulate No. 137. Enclosure No. 8.

To Captain Isaac Lincoln. Brig Comet of Boston.

Consulate of the United States
Havana, March 2. 1836.

Sir.

Henry Morgan, William L. Stephen, Frederick Jines, Henry Latimer, and Joseph Loge, five men belonging to your crew, have, as has been well known to you, been living on shore 4 four of them at least 4 since the evening of the 15th of last month, when they came to ask me for lodgings for the night, stating, 4 as they had done before 4 that you had neglected them in various ways, denied them food, and locked them out of the place where they slept, and kept their clothes from them. Of this you were informed by me the next day. I then remind-ed you that it was your duty, as master of a vessel, on the one hand, to provide for the wants of ~~the~~ your crew whether in health or sickness, and on the other, to keep up proper discipline among them. I told you that men could not be turned adrift, and the shipping contract be annulled, by means of quarrels with them, or dissatisfaction growing out of bad food,

No 2 to Capt. Adams

ill-treatment when sick, general neglect of their com-
fort and the good of the ship, or any other device; that
it was your duty to keep them on board, and maintain
good ~~order and discipline~~ your men on board and
in a word, to be the Master of your vessel:
maintain good order in every respect; and, if you ex-
perienced any difficulty in making them discharge
their's, the authorities of the port would readily afford
you the customary means of controuling them.

In the hope that, with time for reflection,
you would act under a proper sense of the duties
attached to the responsible station which you
fill, I have waited from day to day; receiving al-
most every day from your men a new request
that their case might be decided on in one way
or the other. But I have waited to no purpose.

I have informed them, that our laws
do not invest me with authority for that pur-
pose; and a proper regard for the interests of your
owner prevents me from sanctioning an appeal
by them to litigation in this place. They now
tell me that you have repeatedly refused to
recognize them, on their repairing to the
vessel, and meeting you elsewhere; and that they
are willing to leave here, immediately for the
States, provided they can get their clothes.
This case must be brought to an end, in some way

or other; and if you feel disposed to take that course, I will recommend that you let them have their clothes, to return to the States; as a considerable addition to the expense to which your owner may be put in this case, may thereby be avoided.

Havana Consulate No. 137. Enclosure No. 9.

Consulate of the U. States
Havana. April 16. ~~24~~ 1836.

To Sam.l Swartwout Esq.
Collector of the Customs. New York.

Sir

The Brig Comet of Boston, Isaac Lincoln master, will sail to day or to-morrow for New York. I take the earliest opportunity to request you to caution the boarding Officer in regard to the "satisfactory proof" which the master is required by law to exhibit with regard to his missing men. Several of them have left him, and gone to the U. States, determined to bring suit against him; and the circumstances of the case are such as to make it highly desirable that it should be brought into court, where the "satisfactory proof" wherewith the Master will probably be supplied, can be put to the test of cross examination.

Havana Consulate No. 137. Enclosure No. 10.

To the Captain General

Consulate of the U.S
Havana June 15. 1836

Under date of yesterday I re-
-ceived from the First Lieutenant of the
U.S. Sloop of War St Louis, which sailed
in the afternoon for Matanzas the foll-
-owing oficio:

"One of the men of our crew
was enticed to desert by the people of
the Boarding house kept by a man
named Manuel. The man was har-
boured there. To disguise him they ex-
-changed his man-of-war clothes for a
coarse suit, and they now have those
clothes in their possession. I was obliged
to pay 25 dollars reward for the appreh-
-ension of the man. It is the second that
they have at that house enticed to desert.
The first was not recovered. I think they
should be made to give up the clothes,
pay the 25 dollars, and be otherwise punn-
-ished, in order to secure us in future against

thier rascally occupation. Will you
be pleased to take the proper measures?"

The boarding house here refer-
red to is in Calle San Ignacio Nº 104;
and I beg leave to call the attention
of Your Excellency to the subject, in
the hope that the parties will meet
with such punishment as may be
attended with the good effect of chec-
-king the audacity with which men
of this description pursue practices
that subject the vesels of my nation
of all clases to incalculable trouble
and expense.

Havana Consulate No. 137. Enclosure No. 11.

To the Captain of the Port.

Consulate of the U. S.
Havana, June 16. 1836.

I beg leave to call your attention to a subject which has often forced itself upon mine, and has recently in particular been brought to it by communications from the Consul of H. B. Majesty on the subject of complaints made by British Seamen, who had shipped in American vessels at British ports, of having been turned ashore at this place.

Complaints of this nature are not unfrequent, and though they sometimes prove without foundation, they But whether well or ill-grounded, at others are but too well grounded, they are beyond my powers of remedy; so that in this respect I am not able to assist, as I can in some cases do, and would wish always to do, in maintaining the Regulations and the good order of the Port.

The laws of the U. States contain provisions which leave nothing further to be desired on the subject of the discharge

of the Seamen composing the Crews of American vepels, when those Seamen have been shipped in a port of the United States. On the return of any Vepel to the United States, the Master is required to give an account of the Seamen who formed her Crew when she sailed from the United States; and no such Seaman, of whatever nation he may be, can lawfully be discharged or put on Shore in a Foreign port, except with the Knowledge and Consent of the Consul of the U. States. If this law be violated, the Master exposes himself to a very heavy penalty.

But it happens that there is no provision on the subject of Seamen Shipped in vepels of the United States at Foreign ports. Whether such Seamen be Americans or Foreigners, they may at pleasure be discharged and turned a-shore at this place or any other foreign port without violating any law of the United States; and hence I find my-self without any power to repress or check even the most wanton injustice

and caprice which may be displayed in this respect by the Master of an American vessel.—

At the same time, it is expected by the Authorities of the port, that I should exercise a general control over the Masters and Crews of American vessels, in causing the regulations of the place to be respected by them, and it is also expected that I should take charge of any American Seamen who may be found going at large, provide for their wants, and send them away. And as this is expected of me, I feel that I do not transgress the bounds of delicacy in offering suggestions as to the best mode of checking the irregular discharge of Seamen which is so unfavourable to the good order of the port, and productive of expense to my government and of trouble to myself.—

It is already against the laws of the place for the Captain of any vessel to turn a sailor on Shore; but the law against this practice fails to have its proper effect for the want

of being known, and the want also of there being attached to its infraction a fixed and inevitable penalty. —

To remedy this deficiency, I would propose the following regulations:

1st All Masters of foreign vessels are forbidden to discharge or turn off any mariner or other person belonging to the Vessel, at the time she entered this port without the previous knowledge & consent of the Consul of the Nation to which said Vessel belongs. The penalty for every infraction of this rule shall be 50 dollars.

2d Whensoever a Mariner or other person belonging to the Crew of a foreign Vessel shall desert or absent himself without leave, the Master thereof shall, within 24 hours after such desertion, give notice thereof to the Consul of his Nation. If he suffers 24 hours to pass over without giving such notice, such omission shall be taken as proof that the man was turned off in contravention of the above rule, and the aforesaid penalty of 50$ shall be paid. —

3d Whereas Seamen belonging to

foreign vesels are frequently caused to desert by the Masters refusing to give them their discharge before the Consul when it is due,- All Masters are hereby forbidden to give any mariner this motive for desertion. And if any mariner shall desert from his vesel, and it be afterwards discovered that the master had caused his desertion by refusing to give him his discharge before the Consul of the nation to which the vesel belongs, said Master shall be required to pay a fine of 50 ₰.

I need scarcely say to you, Sir, who have had ample experience of the disorders arising from the acts on the part of Masters of Vesels, which these regulations are calculated to prevent, that something of the sort is highly necessary; and I hope that you will use your best efforts to cause them to be adopted by the proper Authority: So that they may form part of the rules for the good government of the Port. If they be adopted, I will take care to cause them to be known and

understood by the Masters of Vessels of my Nation, and I will do all in my power to bring to your knowledge every infraction of those Regulations that may take place, in order that you may impose the fine.

Havana Consulate No. 137. Enclosure No. 12.

From the Captain General.

Tribunal of the Captain Generaley.

I enclose to Your Lordship a Memorial addressed to this tribunal by Mr. Daniel Warren, a resident of this city, in order that Y.L. may make known the views which shall occur to you in regard to the subject. — God preserve Your Lordship many years. Havana, June 15 1836.

Miguel Tacon.

To the Consul of the United States of America.

(a) This was a long memorial, setting forth at length, the multifarious evils connected with desertion, and representing that they would be cured by causing all shipments of seamen to pass through one single shipping-office. This exclusive privilege, the Memorialist prayed for himself.

N. P. T.

Havana Consulate No. 137. Enclosure No. 13.

To the Captain General.

Consulate of the U. S.
Havana, July 13. 1836.

I have this moment received Y.E.'s
official, under date the 15. June, communicating
a memorial from M. Daniel Warren, where-
in a remedy is proposed for certain abuses
therein set forth, regarding the seamen of the
United States and of Great Britain who visit
this port; and asking my opinion thereon.
There can be no doubt whatever respecting the
existence of these abuses, and the shocking ex-
tent to which they affect the interests of the
improvident class of men who are the victims
of this system of seduction and fraud. The
strongest proofs on the subject come under my
notice every day. Being in the hurry of the
last preparations for my departure to-morrow
morning, I can only say that it will give me
great pleasure to see any measure tried which
holds out any promise, as I think this does, to
correct or to mitigate this monstrous evil; and

from what I have seen of the petitioner, Mr. Daniel Warren, I consider him better qualified than any man in his line of life that I am acquainted with, to do justice to the experiment.

Office of Shipping Master at Havana: - its operation.

The privilege mentioned in the two foregoing Enclosures was granted; and Mr. Daniel Warren became the sole licensed Shipping Master of the Port. Through his agency alone, could any ship-master employ a sailor except in violation of law. That law, he therefore, had every motive for securing against violation. On the other hand, there was still some danger that he might lend himself to the clandestine discharge, or to the driving, of sailors, or to real desertion even, by clandestinely shipping sailors who had deserted or been unlawfully discharged.

The demand for sailors at Havana is generally active and urgent to a degree that renders those in want of them ready to pay the procurer handsomely for his services. Upon this point, I came to a distinct understanding with Mr. Warren. I told him that he had secured a privilege which would be worth several thousand dollars a year to him; and that if

he did not abuse it I would stand by him and give him all the support in my power. But, if in a single case, he should ship a sailor who had become separated from his vessel [she being American] in contravention of the laws of the United States or the regula=tions of the Port of Havana, I would in=stantly ~~denounce~~ denounce him, and strain every nerve to have his privilege revok=ed and to bring pecuniary ruin upon him. He told me that he was perfectly willing to close the bargain, and to add to it the fur=ther obligation on his part, never to fail to in=form me of any sailor whom he should hear of, as having deserted or unlawfully quitted an American vessel.

His position between myself on the one side, and the crimps on the other will be seen ~~at the~~ at a glance. Their trade, of stealing sailors from one vessel and selling them to another, if allowed to flourish would render his privilege worthless. The strongest pe=cuniary incentive, therefore, was continually operating to make him a vigilant spy over the motions of every sailor in the harbour, in or=der that illegal shipments might not take

place. And the intelligence thus obtained could ~~not~~ be put to no use ~~than~~ except by my instrumentality. When informed of a sailor's having deserted, he had either to let me know it or to let unlawful competitors enjoy the benefit of him as an article of their trade: for had he been ever so faithless, it would have been the height of infatuation for him to be tempted by any consideration that could be offered for his services on a single occasion, to incur the imminent risk inseparable from a single violation of his duty. This pecuniary incentive to vigilance against the malpractices of others and to an honest course on his own part was greatly increased by similar considerations connected with the competition between himself and them as keepers of sailor-boarding-houses.

The understanding between us involved another point, relative to his Landlord capacity. It was, that no sailor boarding at his house should ever receive from him any inducement or advice, to remain on shore an hour after a chance should offer for him to ship, but that on the contrary he should exert himself to procure such chances for his boarders and

to prevail on them to avail themselves thereof.

Of this man's fidelity to the under-standing between us, for which his own self-interest offered such strong guarantees, I never had any reason for a doubt that was not dispelled at once on sifting the matter to the bottom. Of his fidelity to the latter part of it in particular, that most likely to be disregarded, the following incident afforded a striking proof.

Dr. Meikleham, a scotch physician resident at Havana, of very high character as a physician and gentleman, received a visit in the early part of the present year [1840] from a sailor countryman of his. This Glasgow tar had come to Havana in an American vessel, from which he had been discharged; and he complained to the doctor of the American consul's "compelling him to board at Paddy M'Caren's." This was one of the standing assortment of falsehoods that constituted the every-day stock in trade of Clark, Bunstead & Co. The truth was, that this notion having been by this confederacy made part of the small change currency of the port, I had made

it

it a point, that every sailor shown, at the time of his discharge at the Consulate, (to be made to) understand that he was at liberty to board wherever he saw fit. The men who were cast upon my hands as destitute seamen were sent to Warren's, because I had no doubt of it's being the least objectionable of all the houses for their reception; [a] but all others were made clearly to understand their perfect liberty in this particular. This, the doctor knew full well; and he so told the complaining sailor. Whereupon the latter rejoined, "Well, but it amounts to the same thing: for Paddy Warren is the only shipping master, and whenmen are wanted he gives the preference always to his own boarders. And so, if a man wants to make sure of an early berth, he must go and board there." The relations in which this licensed

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[a] My predecessor in office, so far as I know, sent all his men to one house. I commenced by dividing them; and reducing the price of board twenty five per cent. The first part of the change was given up in consequence of misconduct in the landlord; the latter part, the reduction, was maintained until the great rise in provisions, and as a consequence, in the price of board, of passages in packets &c, which occurred two or three years ago.

shipping master was, by the nature of the of-
-fice, inevitably placed towards ship-masters,
as a spy and denouncer of every deviation
on their part, whether in getting rid of sailors
or in procuring them, are too obvious for remark;
as is also the truth, that, in exact proportion
to his fidelity to his duties, would be the certain-
-ty of awakening an extensive animosity,
not only on the part of captains, but also of
the very sailors who were most benefitted
by the offices discharged by him. Even
this class, however, would not unfrequently
find themselves thwarted for the instant,
or subjected to momentary inconvenience;
and thus be made to swell the clamor against
"Paddy Warren" and "the rascally Consul who
is a partner in the profits of his shipping
-office and boarding-house."

With regard to captains, it is evident,
that even when otherwise well disposed, the
idea of being dictated to and controuled in
a matter concerning which, hitherto, trammels
of any sort had been a thing totally unknown
in the harbor of Havana, was not a little
calculated to arouse in them all the per
-versity that might be in their nature, to make

them stiffen against this new coercion,
and take delight in proving their indepen-
-ence of both Consul and Shipping-master. It
so turned out; and the league against
Warren proved so strong as to threaten him
with ruin. The old modes of getting rid of,
and procuring sailors, were rife as ever al-
-most. There were always plenty of sailors
on shore, though they could never be found
whilst their ships lay in port. Warren's
shipping-office remained without busi-
-ness, and his boarding-house without
boarders. How matters were made to put
on a different aspect will be seen in the
sequel.

N.P.T.

Havana Consulate No. 137 Enclosure No. 15.

To the Captain General

Consulate of the U. S.
Havana, April 6. 1837

. There arrived here some time ago, on board the American Schooner Hero from Campeachy, an american seaman named J. Gorman, who had belonged to an American vessel wreck-ed on that coast. When he presented himself at this consulate, he was told that he must remain on board the Schooner Hero until he should ship on board of some American ves-sel, many of which were here in want of hands.

Instead of doing this, it was his pleasure to go on shore, and put up at a sailor boarding house, situated immediately behind the Stº Domingo church, and kept by a man who passes under the name of Slick; and after re-maining some days in that house, he sent one of the men belonging to it to claim assistance from me. I told this messenger that the Bando de Buen Gobierno had been violated by the re-ception of this seaman in that house, that

I should not pay his expenses there, and that if he was not immediately sent to this Consulate I would represent the matter to G.E.

It is more than a week since this happened, and I have heard nothing more on the subject.

In consequence of a conversation I have had with the Capitan del Puerto, whose excellent administration of that very troublesome office cannot be too highly praised, I now beg leave to represent to G.E. the character of the house in question, which is notorious as a hiding place of deserters from American vessels.

Although difficult of proof, it is known also, that the Keeper of said house has another outside the walls, to which deserters are conveyed, and where they are concealed until the vessels to which they belong have left the port.

I beg leave to assure G.E. that the audacious manner in which the provisions of the Bando de Buen Gobierno are set at defiance by houses of this description, and the house in question above all others, is an evil of such magnitude to American shipping as to

call for the most energetic measures on the part of G. B. Of all the houses for the reception of seamen, there is but one, & that of Daniel Warren & where American seamen are refused admittance without an order from me to show that they are not deserters.

Havana Consulate No. 137. Enclosure No. 16.

To the Captain General

Consulate of the U. S.
Havana, June 8. 1837.

I regret much to trouble Your Excellency again upon the subject of the audacious conduct of certain men of this city in setting at defiance the provisions of the Bando de Buen Gobierno in regard to the harboring of mariners; but I deem it very important not to lose so good an opportunity as the present for bringing in an effectual way, to Your Excellency's notice, their scandalous practices.—

This morning, no less than Seven American Mariners, deserters from six different American vessels, have been brought under my notice, in consequence of having been expelled last evening from the house in the Calle Sn Ignacio, kept by the person named Manuel, whose reputation I have already had occasion to represent to Your Excellency.—

Their names are as follows:

1st Wm Bennett, deserter from the Ship Shaw of Portsmouth.

2nd William Elliot, deserter from the Brig Busy of Providence.

3d Edward Johnson, deserter from the Ship Wm Badger of Portsmouth.
4th Wm Harris, deserter from the Ship Secretia of Portlands.
5th Charles Sway, deserter from the Ship Transit of Boston.
6th Joseph Anderson, deserter from the Ship Transit of Boston.
7th Joseph Smith, deserter from the Barque Nimrod of Kennebunk.

These men had been living in the said house, some only four days, some four weeks; and they were driven from it, for the evident purpose of preventing their appearance as witnesses in the case of another American Mariner, boarding at that house, named John Davis, who after having been beaten by said Manuel with a stick, was delivered by him to the police under a false charge of having made an assault with a knife.—

This difficulty arose from a dispute between said John Davis, and another Mariner named Charles Vance, a deserter from the American Schooner Caribon, who was employed at the time by said Manuel as his bar-keeper.—

At the time of turning these Seven men out of doors, Manuel told them to go

and work upon the rail-road; and he no doubt believed that the fear of falling into my hands would induce them to follow his advice. But fortunately they went to the house of Mr. Daniel Warren, who immediately gave notice to this Consulate, as he always does when an american mariner goes there. The statement of Charles Sway, one of the seven, will suffice to afford to Your Excellency an idea of the villany that is at work in connexion with these establishments

Charles Sway is a native of the United States, born in Portland, of Swedish parents., He Shipped at Boston in the Ship Transit; deserted from her on Sunday, May 1st, and went up to Guantanamo; on Wednesday the 10th May, went to Manuels, where he has been staying ever since. During this time the Captain of the Brig Henrietta, accompanied by the Comisario of the Barrio in which Manuels house is situated, went out to the rail-road, in quest of two deserters from his vessel. These two deserters were, at that moment in Manuels house, and the Comisario knew it. One of them was immediately engaged by Manuel to the Captain of an American Schooner going to Key West, who paid into Manuels hands the advance wages for one month, which are

always paid when a Sailor is shipped.
The deserter had been at the house only one
or two days, and yet the whole of those advance
wages were retained by Manuel, in payment
of his bill, one part of which was a gratification
of five dollars to the Comisario for allowing
him to stay in the house. The deserter being
dissatisfied at this, expressed some hesitation
about going on board of the Schooner, where=
=upon the Comisario who was present took
some papers out of his pocket, and looking
over them told the deserter that he had
been employed by the Captain of the Brig
Henrietta to arrest him, and if he did not
immediately go on board the Schooner he
would do so.

Havana Consulate No. 137. Enclosure No. 17.

To the Captain General.

Consulate of the U States,
Havana, August 14, 1837.

It has just come to my knowledge that an american mariner, named Jacob Stevens, is, and has been for nearly two months, confined in the new prison at the Punta, under circumstances of a very extraordinary character, which cannot, I am convinced, fail to excite the indignation of Your Excellency, and to give rise to measures on your part which will sufficiently protect my fellow citizens against any repetition of such a monstrous violation of their rights.

I am informed that said mariner belonged to the crew of the American schooner Terrible, which arrived here from New Orleans on the 5th, and cleared on the 15th of June last. While she lay in this harbor, the master, having some ground of complaint against this mariner, applied to the Captain of the Port to have him arrested, whereupon, agreeably to the established practice of the Captaincy of the Port in regard to foreign vessels, he was informed that such application must come

through this Consulate. It further appears that, instead of addressing himself to this Consulate, the said master adopted the more summary process of causing the mariner to be arrested by one of the Comisarios of the city, who threw him into prison where he has been lying ever since. I am told, too, that he is entered on the books of the prison as being placed there at my disposal; as has been practiced by Your Excellency in many cases; but with this important difference, that in the latter a communication from Your Excellency always apprises me of the fact, whereas in the former no such communication was ever made, and but for the subject coming accidentally to my knowledge, the prisoner might have languished in confinement until released by the hand of death. - This proceeding on the part of the Comisarios cannot but strike me as the more outrageous from the fact that when it took place but little more than three months had elapsed since the communication to the Alcalde of 2.da eleccion of Your Excellency's decision under date the 4.th of March last, that the cognizance of all questions between the masters of foreign vessels and their crews re-

sided exclusively either in the Captain Gene-
raley, or the Captainey of the Port, with an
inhibition to all other authorities to meddle
in any way with the subject.(a) Some further
measure on the part of Your Excellency is
necessary, it would seem, to give to this
decision the effect of protecting the per-
sons of American mariners and the interests
of American shipping against the interference
of these ministers of inferior tribunals. — Un-
certain whether the mariner in question has
really been placed at my disposal by the
Comisaris, I will request of Your Excellency
an order for his immediate release, trust-
ing that the Comisaris who has been guilty
of this flagrant outrage will be afterwards
dealt with as its enormity merits.

(a) For a notice of this decision, see my letter to the Capt. Genl. March 29. 1835.

N. P. T.

Havana Consulate No. 137. Enclosure No. 16.

Regulation of September 1837

Extract from the Diario de la Habana, [Official Newspaper] of September 25. 1837.

"Official

"In the Proceedings of ~~the~~ Enquiry arising from the communication of the Consul General of the United States, regarding the abuses committed by the Keepers of board-ing-houses for foreign mariners, His Excellency the Captain General has order-ed the publication in the newspapers of this city, for three consecutive days, of the following resolve:"

"The resolve contains, first, a picture of the abuses which are to be check-ed; and then establishes the rule, that no foreign sailor shall be received in any boarding-house, unless provided with a paper bearing the signature of the Captain of the Port. Penalty for the first infraction, $50; and for the second forfeiture of license

to keep the house, besides prosecution for ma
=licious contempt of the law: when indicated by
the circumstances.

It concludes with disposing
of the persons in confinement under the
proceeding arising from the Consul's com
=munication. They are liberated: James
Fleming being required to pay, upon each
of the Sailors, found unlawfully in his
house, the fine established by the Bando;
and the costs of proceeding, conjointly
with Juan Murat, who is admonish
=ed not to repeat the offence.

N. P. T.

Regulation of September 1837: it's operation.

This Regulation was the opening of a new era. Owing, however, to my time and attention being engrossed by public business of importance and urgency, I could not at the instant avail myself of the advantages it ~~xxxxx~~ offered. These could be secured no otherwise than by a systematic plan of operations, which, once entered upon, should be pursued, not only unflinchingly and unfalteringly, with out fear, favour or affection, regardless of persons, but also continuously and uninterruptedly, without allowing any to escape. Partial or isolated instances of the exercise of the power which this regulation placed in my hands would do more harm than good; and I accordingly determined to scrape along in the old way until the time should come when I might throw away the scabbard and plunge into the fight with the certainty of remaining free from all causes to call off my attention until the contest

should be over.

At length, the iron being heated and all made ready, it was brought under the sledge, and the tilt was started. The two first cases of any moment that occurred were those of the ship "St. Clair" of New York, and "Congress" of Portland, in May 1838, only six or seven weeks before the Wendell case came up. The latter of the two, as will be seen by referring to my №42. June 1838, was shortly, as follows: the crew [shipped at Liverpool] of the "Congress." William Hasty, Master, believing themselves entitled to their discharge, and finding that they could not take the matter into their own hands by deserting, ~~they~~ sought redress at the hands of the Consul. The Consul applied in the most respectful manner to Captain Hasty, to see the shipping contract. Captain Hasty, firmly grounded in the well established doctrine, that "a Consul has no rights to interfere between a master and his crew," and no less skeptical, doubtless, as to the possibility of such a thing as a Consul's daring to take any step that might have the effect of involving an "American Ship-master,"

in difficulty with Spanish Authorities, treated the Consular impertinence with due contempt. The Consul applied to the tribunal of the Captain Generalcy, [whose duty it is to protect foreigners,] that is, foreign men, a genus in which even sailors are included, to request that Captain Hasty should be compelled to produce to the Consul the contract in virtue whereof these sailors were kept on board; and in consequence Captain Hasty was subjected to that unheard of degra=dation: a just cause, as no proper "American citizen" will dispute, for unbounded wrath and quenchless hate in his bosom and the bosom of every true American, hating tyranny and sympathising with the victims of Consular insult and oppression.

The first of the two above named cases, that of the ship "St. Clair," Alfred Putnam master, will, from the following document [marked Enclosure No. 20.] be seen to have been a case of clandestine discharge, to avoid the exaction of the three months extra wages. The men were content - the wages earned by them had been fairly paid by the Captain, and they had, as it is termed, "taken them=selves off." But, through Warren's vigilance,

or that of some one in his pay, they were ar=rested as deserters. The consequence was, that captain Putnam had to come forward and discharge his men according to American law; and, as it is beyond the power of a consul [except by winking at evasion of the law] to exempt a ship-owner from the unreasonable and absurd exaction of three months' wages extra, upon the dis=charge of a sailor, captain Putnam was compelled to pay it.

He bore the trial very well, and, on taking his leave, told me, in a not unfriend=ly spirit, that through my inflexibility, he would be a loser of the whole amount of those extra wages out of his own pocket; inasmuch as his owners, he knew, would refuse to allow the charge in his account. They would refer to the universality of the evasion of this law, and argue therefrom, that "if he had been a smart fellow, he might have got off from paying the extra wages."

With this case, commenced the la=bour which I knew was in store for me, [al=though my estimate proved short of the re=ality] when I entered upon my long meditated

task

task, so to order matters, that not a single sailor should sever his connection with an American ship in the Port of Havana, except in strict conformity with American law. Of the magnitude of this undertaking, and the number and violence of the collisions which were to come of it, an idea will be formed by perusing the pictures by Mr. Shaler and others [No. 105. Enclosures Part 1.] of the state of things prevailing in that port, and then [bearing in mind the exacerbating influence of the three months wages' exaction, upon men already astounded and enraged by such unheard of consular audacity as to interfere at all] considering, that of the breaking up of desertion, the inevitable consequence would be, to bring face to face to me, first the sailors, and then the masters, in the following cases.

1st. Cases wherein the men had been "driven"; i.e. compelled to desert by ill usage, inflicted for that very purpose, either long before or long after [as might suit the master] the voyage for which they had shipped was "up". An operation whereby the captain, besides avoiding the three months' wages exaction for his owners, was enabled to

put as much, sometimes, as seven or eight hun-
dred dollars into his own pocket.

2nd cases of clandestine discharge, wherein the men after receiving the wages earned by them, [the whole, or a quarter part, or less, according to the measure of the captain's conscience,] agreed to "take themselves off," and not trouble the consul. These cases being always "logged" as cases of desertion or absconding; and the master, before his departure, making oath accordingly before the consul and taking his certificate to that effect.

3rd cases of real desertion: either unprovoked, or for cruel treat-
ment, not, however, inflicted for the purpose of causing desertion.

N. P. T.

Havana Consulate No. 137. Enclosure No. 20.

To the Captain General.

(Confidential Memorandum)

I have, this day, caused to be arrested two Mariners, deserters from the American schooner "Savannah", now lying at Matanzas. These men stole a boat at Matanzas, in which they came to this port. They immediately proceeded to the house No. 104, Calle San Ignacio, which is notorious as a "safe harbour" for deserters; where they were received, — where one of them was furnished with a hat, — and whence they issued yesterday and to-day, for the purpose of selling the stolen boat, which belongs to an American vessel.

There are now in that same house, No. 104, five other mariners, belonging either to American or to English vessels, who have been received there without the Permit from the Captain of the Port, required by the Captain General's decree of the 12th of September last.

This house is kept by the famous offender who passes among our sailors under the name, "Spanish Nick" (Alexandro); and, as well as his rival, "Italian John," has done infinite mischief in this way. Many of the American captains have seen the strongest possible indications of an alliance between this man and the Comisario whose duty it is to prevent him from violating

the

the laws; and a number of the american seamen thus harboured by Mick have afterwards related to me facts showing that such an alliance does exist, — and that said Comisaris has a strong pecuniary interest in promoting such violations of the law.

January 4. 1838.

Havana Consulate No. 137. Enclosure No. 21.

To Capt. Alfred Putnam, Ship St. Clair of New York.

Consulate of the United States of America

Havana, May 21st 1838.

To Captn. Alfred Putnam

Ship St Clair of New York.

Sir,

William Glenn and William Jones have been brought to this Consulate in consequence of their not being provided with the Permit from the Captain of the Port, which is requisite to their being lawfully on shore here; and without which they are ever liable to arrest, and cannot be harbored in any house without subjecting the keeper to heavy fine and further penalties.

No such Permit can be granted by the Captain of the Port to a Mariner from an American Vessel, except upon his producing the Certificate of this Consulate, that he has been regularly discharged from the Vessel that brought him to this Port.

These men state that they came

in

in your vessel, - that you have paid them the wages earned by them, and have allowed them to come on shore.

If, by the Shipping Articles, they be entitled to their discharge, or if it be your wish that they should cease to belong to your vessel, you will please appear at this office tomorrow, between the hours of 10 A.M. and 2 P.M., to settle for their discharge according to law: In default whereof on your part, it will be my duty to report you forthwith to the Captain of the Port for such fine as he may see fit to impose for your violation of the laws of the place; and to the Government of the United States for suit upon your Crew- List- Bond.

I am, Sir, very respectfully
Your Ob't Serv't
H. P. Tait.

To the Captain General.

Consulate of the United States of America
Havana, August 16th 1838. (a)

The Regulation adopted by Your Excellency's predecessor, and published in the Diario of the 25th of September 1837, having proved very effectual as a check upon the practice of harboring on shore, deserters from vessels in this port, I beg leave to call Y. E's attention to another branch of the same evil, which has received new vigor from the lopping off of the first. I allude to the harboring of deserters from one vessel on board of another.

By a law of the United States, (a corresponding provision to which is doubtless to be found in the Maritime code of every other Nation,) no mariner shipped in the United States can be discharged from an American vessel in a foreign port except with the knowledge and consent of the Consul: under whose care and supervision the law thus intends that every sailor shall come, the instant he becomes separated from the vessel which has brought him from his own country. The habitual violation of this salutary regulation, through collusive de=

=sertions

(a) This letter, after having been translated, copied & examined, was delivered to the Captain Genl. & the following February, the subject having again been brought to my attention, I addressed to him a note of the 28th of February 1839, and soon after received from him a verbal answer, that having attended to the matter in April 1838, & the translation (which, I presume, was then made) of my letter had been lost, he was unable to say what had been done in the premises, but that he would cause inquiries to be made &, if found necessary, the offenders punished. — It may be remarked in regard to the style of these communications, that

(a) Insert here as a foot note, the matter in the right hand margin. The copyist will insert as a foot note to this page what is on the right hand.

sertions concerted between the masters and the men, who also are not unfrequently forced to desert, by ill-treatment inflicted for that very purpose, has created here a constantly replenishing class of sailors unlawfully on shore, under the name of deserters but who are not so in reality: their captains being, of all persons, the most interested in preventing them from coming under the notice of the Consul. The existence of this class of nominal deserters, separated from their vessels in violation of the laws of their own flag and in open defiance of those of this place, but whom all parties — themselves, the master who had discharged them, the landlords, and all ship-masters who might want men — were interested in preventing the detection of, and no one was interested in causing to be arrested; — the existence of a class of mariners thus always unlawfully on shore, with the certainty of impunity to themselves and to those who received them, could, evidently, not fail greatly to facilitate real desertion, and to promote in every way the thriving branch of business carried on by a few active and audacious men, whose sole employment it was to direct the machinery which they kept always at work day and night, for stripping vessels of their crews. It is scarcely necessary to add that it

has

to obtain correction, was always done under my eye.) They were written always with a view to facilitate the terms of their articles.
H. D. T.

proved too, the chief obstacle to the thorough suppression of the practice of harboring deserters, and thereby of desertion itself, by means of the Regulation already referred to as published in the Diario of the 25th September 1837.

It has consequently drawn upon itself, and not without result, a proportionate share of the means which it has been in my power to contribute for giving efficacy to that Regulation. These results now threaten, however, to be reduced to nothing, unless supported in their turn by aid from the authorities of the Country. Driven in a great degree from the shore, collusive desertion is taking refuge on ship board, accompanied too, as it ever must be, with real desertion; which of course, is the only one of the two companions that is at all likely to be ever complained of to me by ship-masters, or to become known to me except through accident.

The only remedy appears to be to extend to the vessels lying in port the same regulation which has proved so useful against the same evil on land. I beg leave therefore to suggest for Y. E's consideration and adoption the following provisions:

1st That no mariner shall, under any pretext, be employed

employed, or received or permitted to remain on board of any vessel in this harbor, unless the master of such vessel shall have previously ascertained that said Mariner has been lawfully, and in compliance with every regulation, discharged from the vessel which brought him to this port, with the knowledge and con=sent of the proper Consul.

2nd That if any mariner shall be employed or received on board of any vessel in contravention of the foregoing prohibition, the Master of such vessel shall pay a fine of fifty dollars for every mariner thus employed or received; which fine shall, in every case, be doubled if any such mariner shall be found on board af=ter the vessel shall have obtained her clearance at the Custom-house.

These provisions, it will be seen, correspond to those which are in force for the protection of vessels against the harboring of de=serters on shore; and which cannot but remain very imperfect in their operation until the same check is placed upon the ~~same~~ class of ship-masters who are capable of the very same conduct, against which they are the first to cry out, and the loudest, when committed by the miserable keeper of a grog-shop.

I have the honor to be, with the highest consider=ation Your Excellency's Obed.t Serv.t

(Signed) H. P. Trist.

His Excellency Don Joaquin de Espeleta
&c &c &c
Captain General

Regulation of April 1839.

The Diario de la Habana of May 11. 1839, contains a Decree of the Captain General, establishing the addition-al regulations proposed in the foregoing letter to him in regard to the harboring of deserters on board ship; and giving it in charge to the Captain of the Port and to Daniel Warren, as licensed Shipping Master, to watch over all vi-olations of these regulations and denounce them, that the penalties may be applied.

N. P. T.

Havana Consulate No. 137. Enclosure No. 24.

Regulation of December 1839.

The Diario de la Habana of December 18. 1839 contains the last Decree of the Captain General on the subject.

It had been found, that various contrivances had been resorted to by the crimps and their patrons to defeat the object of the former Regulations, and to dispense with the employment of ~~the employment of the~~ licensed shipping master. To meet those contrivances, & which were connected with an illegitimate use of the Permits to be on shore granted by the Captain of the Port; this Decree, referring to the regulation established "in consideration of the recommendation of the Consul of the United States of America," establishes the following supplemental rules, which had been for some time observed at the American Consulate.

On the discharge of a sailor at a foreign Consulate, the certificate of discharge will be given to the Shipping-master, who

will proceed with the discharged mariner to the Captaincy of the Port, and there ob-tain for him his Permit to be on shore. This document will remain in the custody of the Shipping Master; who, upon shipping the mariner named therein, will make an endorsement of the date and name of the vessel, and deliver the document thus endorsed to the Consul, to be filed in his office; and shall also make official report of the same particulars to the Captain of the Port.

Thus was an effectual security established against the Shipping Master's shipping deserters, in consequence of his being imposed upon by one sailor's produc-ing a Permit issued in favor of another; and also against all the other evils that might result from an accumulation of obsolete Permits, floating among the grog-shops, for use by any sailor needing them, as is the case at home and in all foreign ports frequented by the American flag, with regard to those "Protections" which are a reproach to our country, and cannot but remain so until they be abolished or the

scandalous abuses connected with them be
effectually secured against.

N. P. T.

Havana Consulate No. 137. Enclosure No. 25.

Prefatory remarks on the subject of calls for Consular interference.

Among the calls which a Consul is liable to have made upon him are, demands for his interference with the regular operation of the laws of the country in which he resides, made not unfrequently in cases wherein any such pretension on his part would be utterly irrecon=cileable with a decent respect for the indepen=dence of the nation from which he derives his exequa=ture.

Demands of this nature arise chiefly from want of information regarding the rights of Consuls and the functions proper to them; which, as can be readily ascertained by look=ing into treaties and standard works on in=ternational law, are everywhere of a very re=stricted character in all respects, and above all in regard to the relation in which a Consul stands towards the authorities of the country in which he resides. This, however, is not generally understood. A foreigner who feels himself incon=venienced, or fancies himself aggrieved in any

way, either by a difficulty with another individual or by the operation of the laws, is apt to fancy that he has but to call upon the Consul "for protection," as it is termed; and that thereupon, the waving of the Consular wand will suspend the action of the government, and set every thing to rights. The extent to which this fallacy prevails is altogether inconceivable except to one who has filled the post of Consul at a place frequented ~~by~~ as Havana is by his countrymen. It would be difficult too for any other to realise the fact that the persons to whom a consular pretension to "interfere" for instance, interference in behalf of a crew oppressed by their captain, seems the height of audacity, are the very ones who, when they themselves encounter any thing unpleasant, are most prompt in claiming instant redress at the hands of the Consul, and most preposterously unreasonable in their expectations in regard to the efficacy of the office to make all things square with their own interest-warped notions of what is right and proper. Under one aspect the Consul is a cypher; under the other, it is expected of him to exhibit a degree of power which could reside only in the sovereign in the most absolute and unregulated despotism that can be conceived, who

should

should decide every case by his own mere mod, —his spontaneous fiat— given without reference to law or rule of any kind.

Generally, such cases can be disposed of by explaining the nature of the Consular office, and referring the party to his own experience of governmental action at home, and to the impossibility that it should be controuled or modified except in the mode provided by the constitution and laws of the State. A reasonable man requires nothing more to be made sensible of the fallaciousness of the expectation inspired by the vague notions of "protections" connected with the consular office. Mens are, however, not always reasonable; and the disappointment experienced on such occasions is not always unattended with vexation and ill-will against him who is looked upon as the cause.

In addition to the cases of this kind, spontaneously arising from mistaken views in regard to the nature of the office, there is another class less easy to deal with. The generality of merchants understand perfectly well that when a ship-master, or a supercargo, or any other stranger recommended to them, happens to get involved in litigation, whether with individuals

or with the government, it is a private matter, which in its first phases at least, cannot properly be considered as an international affair in any sense of the word, nor become the subject of action by international agents. They therefore give their attention to it as a private matter; and as such it is followed up until disposed of according to the laws of the country, without any recourse to the consul, or at most for his opinion and advice. This, however, is not the course pursued by all. Some there are, who, though perfectly willing and solicitous to receive consignments, whether of cargoes, or of cargo-sellers and buyers, and to pocket the commissions thence accruing, seek, the moment any one consigned to them becomes involved in a difficulty of any kind, to disburden themselves of their proper share of the trouble upon the shoulders of the consul. "Go to your consul, 'tis his business to protect you, and demand of him to interfere and put a stop to this vexation". This is a very convenient process for avoiding the trouble, and responsibilities, and collisions with individuals and with functionaries, inseparable from legal proceedings, by converting

them

them at once into grounds for international questions and disputations. It unfortunately happens, however, that it is not altogether compatible with the existence of independent governments; and if this objection could be obviated, the system would still require a corps of Consuls at every port, equal in numbers and in qualifications with that of the lawyers.

In justice to others, I must say that such a course of proceeding in regard to myself, has been almost entirely confined to one house, - that of Charles Drake and Co., a native house of Havana, & the head of which is a son of an English merchant - who settled and married in the island & which shares very largely in the american and other foreign business of the port. The american and other foreign houses attend to their own business and their own duties in this regard. But, of this particular house, the first thought, on any occasion of this sort, is always to turn over the individual placed under their protection to his Consul, and thus present to that officer the alternative of compliance with their exaction by an impertinent pretension to intermeddle with the

public functionaries of the country, or afford=ing the pretext for discontent and abuse, that he does not protect his countrymen and attend to their affairs.

Of the occasions on which this course has been pursued towards me, those which gave rise to the following letters afford a specimen. The first relates to the case of the American barque Navarino; the two others to that of the schooner Venus.

The legal proceedings in the former turned upon an affray between a portion of the crew and of the military guard station=ed about the quay. After some less formal modes of applying for my interference, captain Adams, the master of the ship I who has always been, both before and since, a very good friend of mine, I was induced to address to me a let=ter, which I cannot here give, having, contrary to my intention, left it behind me at Havana. Its purport however, may be gathered from my reply, [Inclosure N. 29] which I was not sorry to be afford=ed an opportunity to write. The case proved a source of considerable, and, I believe, altogether unmerited, expense to captain Adams. Being orally informed of this by his consig=nee, M. Charles Drake, I requested that

gentleman

gentleman to procure, and lay officially before me, a copy of the proceedings, on the face of which, he said, the injustice did appear; and told him that I would then take such course as the nature of the case might warrant, either by communicating with the Captain General or bringing the matter to the attention of the government at Washington. He subsequently informed me that a copy of the proceedings had been applied for, and de=nied by the Judicial officer, whom he repre=sented as a very corrupt and bad man. Thereupon I desired that his house, as the con=signees of the ship, would address to me a letter stating the grounds of complaint and the denial of a copy of the proceedings; and promised that I would instantly address my=self to the Captain General on the subject. I was very desirous to obtain this ground for acting upon it. But I heard no more of the matter. The house did not see fit to incur, even to so small an extent, the responsibility of being instrumental in occasioning diffi=culties. I afterwards learnt that Captain Adams had (most unjustly, so far as I un=derstood the case) been obliged by his owners to bear the whole expense.

The foregoing case happened in 1836. The other, in 1838. It arose out of the seizure, by the Rezguarde, or smuggling-preventive service, of two barrels of flour on board the American schooner Venus, J. K. Wilbur Master, consigned to the same house. The seizure took place in the evening. The next day, the circumstances having come to the knowledge of the Collector, the barrels were by his order, carried back to the Venus in one of the custom-house boats; from which captain Wilbur refused to receive them, pronouncing his refusal up on the most preposterous and grossly insulting imputations upon the Officers of the customs: such as, that he did not know but that the flour had been changed, or that the barrels had been emptied of the flour and filled with valuable goods, for the purpose of affording a pretext for seizing his vessel on the ground of smuggling!

The manner in which I first became aware of this case was as follows: I was conversing one afternoon with an American ship-master, [Charles W.] captain Bradbury of the ship New Orleans, who had just been introduced to me on a piazza of M. Charles Drake's

commercial

commercial establishment, upon which my office opens, when a person unknown to me, I be proved to be captain J. K. Wilbur J, who was sauntering in the same piazza, drew near, and, addressing himself to me, poured out a torrent of profanity and vituperation against the local authorities for the seizure just spoken of, which he persisted in calling a robbery. From his own account of the matter it was manifest that this seizure had been the event of a trial of skill between himself and the Commandante de Rezguardo, or head of the smuggling-preventive corps; and that he was instigated to the fuss-making which he was now engaged in, by his consignees, through spite against that officer. The two barrels of flour had been placed by captain Wilbur on his manifest as part of his stores for consumption, and were, in consequence, exempt from the import duty ~~, which it should~~ [ten dollars per barrel]. But he was about to sell his vessel: under which circumstances he conceived himself entitled to sell his stores, too, whether with the vessel, or separately; and that the Spanish authorities had no right to interfere with his free-agency on the subject. The Rezguardo, however, had thought differently; and in consequence the flour had been seized

at a moment when, in pursuance of an arrange=
ment which they had intelligence of, it was to
be sent out of the vessel. Captain Wilbur did
not seem disposed to deny that this intelligence
was well founded, but rather to make a merit
of it. What he insisted upon was, that they had
no right to make the seizure until the flour
had got out of his vessel, and then they were
welcome to do so if they could find it. He knew
they had no right. He was the more certain on
this point from his having himself held the office
of Teniente de Resguardo under the Mexican
Government at Tampico. The seizure was an
outrage, - an insult to the American flag; for
which he was determined to have satisfaction
against the Commandante de Resguardo; by
his dismissal, and against the Spanish govern=
ment in the shape of damages: for he had lost
several thousand dollars by the seizure, in con=
sequence of its having prevented the sale of his
schooner. D—n them, they had kept him shut
up in that Morro once for several months,
until he had been released by his uncle captain
——— of the Navy. He had had the satisfac=
tion of being the death of many of them; and, by
J—s, he would be the death of many more. He
had plenty of friends at Washington, and he was in

no want

no want of money, and he was determined to
have satisfaction, if it should cost him ten thous
and dollars."

I at first endeavoured to bring him
to reason by reminding him of the right of every
nation to regulate it's own ports, and to pass it's
own laws for the prevention of smuggling; and al=
=so of the manner in which that right is exercised
by our own government, whose laws on this sub
=ject are as strict, and rigid, and summary as
can well be conceived. But finding that both
he and captain Bradbury [whom I discovered
to be on intimate terms with him] were determin
=ed on seeing the subject in their own light, I
allowed them to have all the talk to themselves
until they took their departure.

On reëntering my office, I men=
=tioned the subject to the Vice Consul, who, in re
=ply to my question whether Wilbur had ever
made any application for my action in the case,
said, that he had not, that he had only come to
the office a day or two before and talked to him
in the same strain that he had to me.

Some days elapsed, when captain
Wilbur [who, of all persons with whom I have
had to deal, proved by far the most gratuitous=
=ly insulting] swaggered into my office one

afternoon, and wanted to know what I had done in his business. Upon my replying that his business had never been presented in any way for my action, he affirmed that it had, — that he had come to the office to demand my interference; and, not being able to see me, had spoken with the Vice-Consul. Yes, I replied, in the same strain that he had to me; but had not made any definite application for my agency; and now, as I should consider his present visit in that light, if he would call the next day, during office hours [which were then passed] he should have my answer to it. "O!" he rejoined, "if you dont choose to take my business in hand and afford me protection as an american citizen, just say so, and I will apply elsewhere. I'll go to the British Consul, — I've got letters for him, — and he will protect me." Saying that he had my answer for the present, I pursued my way out of the office, which had been delayed by his visit; and he followed some distance, at my side, repeating the above phrase, in a manner showing his determi=
=nation to irritate me if posible.

The answer received by him the next day, in the presence of one of the partners

in the

in the house under whose influence he was, I believe, acting, and whose presence I had requested in order that he might hear my answer, was, that I would not interfere in the case in any way whatever, in its present stage, - that if he deemed himself aggrieved by the conduct of the custom-house officers, he must seek redress, as any other private individual would, from the proper authorities, in the mode prescribed by the laws of the country; and if this recourse should fail to be attended with a satisfactory result, I would then, if he presented his case to me, transmit it for such action as the Secretary of State might deem it to require.

On the 13th December following, I received from the hands of Mr. Espino, a clerk of Mr. Drake's, a copy of the proceedings which had taken place. I immediately perused them, and then wrote my letter [Inclosure No. 30] of that date, addressed to the house of Charles Drake & Co. by whom it was returned, with the information, that they were not, as I ~~supposed~~ had supposed, the agents of captain Wilber in this matter. In February following, captain Wilber having returned to Havana, Mr. Espino applied in his name for the return of the copy of the proceedings. I declined to deliver [Enclosure No. 31.] it, on the ground that I considered it proper to retain it for transmission to the Department to which I

was responsible, in proof of the nature of the case; which, as usual, had been made the subject of the grossest misrepresentation, and in regard to which I entertained no doubt that the party was capable of attempting the most flagitious imposture upon the Government at Washington. This refusal on my part subjected me to a visit from Captain Wilbur in person, which ended by my finding myself compelled, after patiently bearing with the most bullying and insulting deportment, to bring it to an end by requiring him to leave the office.

One incident connected with the occasion when I first saw him deserves mention, from the illustration it affords of the nature of a Consul's position with reference to characters of this description. The person with whom, as above stated, I was in conversation at that time, was a Captain Bradbury. He had just been introduced to me, as the commander of a fine ship which I had noticed some evenings before, as she approached and entered the port. To have something to say, I enquired whether he had ever visited Havana before; and this enquiry being answered in the negative, led to the following conversation:

Consul: Had you a pilot on board?

Captain B:

Captain B: No.

Consul: Then you ran some risk in coming in as the dusk of the evening: for there is danger of encountering a flaw of wind on passing the Morro, by which a stranger is apt to be taken by surprise, and thrown ashore.

Captain B: It would not do for me to get my ship ashore: for my father is President of the insurance company.

Consul: Aye: the insurance companies! I hope the time is not distant when it will not be necessary for the captain to be the son of a president, in order to make them keep eye upon him. I am satisfied that if they would but do justice to themselves and to the community in this respect, they could afford to take risks at a far lower rate than they do. If we consider how many premiums are swept by one loss, and how large a proportion of the losses that occur are caused by gross incompetency of one kind or another in the master, it becomes evident that if underwriters were to give to this subject the attention which is due to those masters who are competent and faithful to their duties, they might afford to insure at far lower rates. If they would but discriminate even between notorious drunkards and sober men, they could do this; and they would

thereby, too, render the service of driving from so responsi-
ble a post a set of men who are a disgrace to the
flag, and in countless ways an injury to all who
sail under it.

In using this language I had not the
most distant suspicion of what I subsequently learnt,
- that my reflections were personally offensive, inasmuch
as they were pointedly applicable to the individual
to whom they were addressed, a young "gentleman",
placed, under the care of a competent mate, in
the post of ship-master, for reasons similar to those
which, in England, sometimes cause a young sprig
of Nobility to be sent to amuse himself, out of sight
of the circle among whom the "family respectabili-
ty" is to be maintained, in the command of a yacht.

Some evenings after this, in a
Coffee-house which is a place of great resort
with the Captains of all nations who frequent Havana,
a scene occurred, one of the actors in which was a
Scotch captain by the name of Campbell, at that
time the only foreign ship-master with whom I
had formed any acquaintance. Campbell being
seated in the Coffee-house, was addressed by an
American ship-master, and the following dialogue
ensued.

Stranger: What would you think if the British
Consul were to say that all British ship-masters

are drunkards

are drunkards, and unfit to command vessels?

Campbell: What Consul does say so?

Stranger: Why our Consul, the American Consul. That is what he says of us.

Campbell: I don't believe a word of it. I happen to know Mr. Trist, and I know him to be a gentleman, incapable of using any such language.

Stranger: Well, but he did, though.

Campbell: Did you hear him?.

Stranger: No; but there is a man in the room who did.

Campbell: Well, I don't believe it.

Campbell was soon accosted by a second stranger, who, surrounded by a number of others, came up, to see the man who pretended to doubt his word.

Campbell: I don't happen to know anything about your word; ~~But~~ But I do happen to know Mr. Trist, and I don't believe he ever made use of any such expression about his countrymen. I tell you what he may have said, that some of them are drunkards and unfit to command vessels; and if he said that, he said what is true: for I have seen some such myself here in this port.

And here the conversation closed: this scotch skeptic being found to be a man of

such herculean frame, and bold, open countenance as held out the assurance of his proving a "bad customer" to any two that might attempt to enlighten his understanding by "punishment."

N. P. T.

Havana Consulate No. 137. Enclosure No. 26.

To the Captain of the Port.

Consulate of the United States
Havana, May 21. 1834.

Sir,

I have the honor to acknowledge the receipt of your note of this date, informing me that the Captain of the American ship Plato has refused obedience to an order from you to deliver up into your custody, a free negro of this place; and asking me to address an order to him, requiring him to conform to yours. This is the same negro, I am informed, against whom a complaint was made to me this morning, for a breach of the peace, on board of the ship in question; and I have only to repeat here, what I said to the complainant this morning, that the Authorities of the Port are the proper, as I have no doubt they will always prove, the sufficient, Conservators of the peace therein; and to assure you that no Captain of a vessel shall receive any countenance from me, in protecting against seizure by those authorities,

any person on board his ship charged with any crime, breach of the peace, or offence legally subjecting him to arrest, whether such person belong or not to the vessel.

With this assurance, I leave the case in your hands, begging you to accept my most respectful salutations.

Havana Consulate No. 137. Enclosure No. 27.

To Captain Wise. Ship Plato of Philadelphia

Consulate of the U. S.
Havana, May 21. 1834.

Sir

In answer to a note just received from the Captain of the Port, complaining of your refusal to deliver up into his custody a certain free negro belonging to this place, & against whom there appears to be a com=plaint for breach of the peace & I have inform=ed the Captain that no master of a vessel shall receive any countenance from me, in protect=ing against seizure by the authorities, any person on board his ship, charged with any crime, breach of the peace, or offence legally subjecting him to arrest; whether such person belong or not to the vessel; and that I leave the case in his hands.

I deem it proper to give you early notice of this; and to add, that in every case of an act for which the person committing it may be arrested, the authorities have as

much right to make such arrest on board ship as they have on shore, and that where one of the regularly constituted and known authorities of the Port demands the delivery of a man, alleging any offence whatever as the cause, the better plan for the master to whom the demand is addressed, is, to comply with it. If the arrest be illegal or in violation of the rights of our flag, it will be al-ways easy to have the matter set to rights through the intervention of the Consul, where-as if the demand be a proper one, & as it is to be presumed it is, when made by such au-thority as the Captaincy of the Port & to set it at naught is to commit a violation of the rights of the Government of this country, which cannot be submitted to, and the repeated occurrence of which would necessarily be destructive of all harmony in our intercourse, and of all spirit of accommo-dation and lenity towards our masters and crews.

Havana Consulate No. 137. Enclosure No. 28.

To the Captain of the Port.

Consulate of the U. S.
Havana, May 22nd 1834.

Sir

Captain Wise of the American ship Plato, appeared here this morning, and informed me that, yesterday evening, on his surrendering the man belonging to his vessel into your custody, you had determined to refer the case to my decision, and had desired him to call upon me with the witnesses for my examination. In this course on your part, I am happy to recognize the fulfilment of the anticipations which I have confidently entertained and expressed, as to the friendly spirit towards the nation I represent which would always govern you in the discharge of the important functions of your office; on which depend the order, quiet and security of the large number of persons and the immense amount of property always collected in this vast Port. An indispensable auxiliary to the principle

of jealously guarding our own rights, is the other principle of scrupulously respecting the rights of others. These two principles, I have laid down for my government; both being of equal force, as they are of equal necessity. I have called the attention of the Captain of the Plato to this pleasant result of the course pursued by him under my direction, as a proof of the justness of the assurance which I give to our mariners, on all occasions that offer, that nothing is to be dreaded from their yielding that immediate and cheerful compliance which is recommended by me to the requisitions they may receive from the authorities of the Port.

In conformity with your wish, as communicated by Captain Wise, I have examined himself and two of his men, John Minor and Martin Bell: these being the only part of his crew who were eye-witnesses of the occurrences between the Cook of the Plato, and the partner of W. Miller of this City, who lodged the complaint against the Cook. The result of this examination is to satisfy me of the following facts:

The Complainant (whose name I do not know) went on board the Plato with some stores.

When he arrived there, the captain was at dinner; and he [the captain] sent the cook on deck with directions that the stores should be received and kept there until he should come up to see them. As they were getting the stores on board the ship, the complainant who was on deck, ordered the cook to take them aft. The cook replied that it was the captain's orders were, that they should be kept where they were, until he should come up: whereupon the complainant struck him. Upon this, the cook remarked that the complainant ~~was~~ had no right to strike him; and then the complainant repeated his blows: striking first with his fist, and then several times with a stout stick, and, finally, throwing at the cook the stick, which missed him, but struck the second mate, who was coming up the steerage hatch, on the arm, and hurt him so that it is now quite sore.

It appears, therefore, that this man, so far from having just cause of complaint, is himself chargeable with having broken the peace, in a very outrageous manner; and is guilty of a grave offence against your authority, as well as a flagrant breach of our rights, by assuming to himself to beat, on the deck of an American ship enjoying the protection

of a Spanish Port, one of her crew whose only offence was, acting in conformity to his captain's orders. It seems also, that the statement as to the Cook's belonging to this City is unfounded. He is a native of Nassau, New Providence, in the British dominions; and came here, where his mother now is, in the American Brig Clio. He was regularly entered on the articles of the Plato as one of her crew on the 8th: inst.

The first thing I knew of this case made a very unfavorable impression on my mind as to the Complainant. A seaman appeared yesterday morning at the Consulate, who represented himself as the mate of the Plato, and stated that the master of that ship was sick, and had sent him to ask for an order of arrest to take the Cook into custody. On being interrogated he became confused, and went out to call up M. Miller or Müller, who, it seemed was waiting the result below. It then appeared that it was M Müller, and not the captain, who wanted to get the order of arrest, and who had resorted to this fraudulent mode to obtain it. I, of course, refused to give it to him.

After this the complainant himself came. My subsequent course in the case was not influenced by any confidence in the statements of himself or his confederates, but was

governed.

governed by the principle, that, whatever might be the merits of the case, the Police of the Port was in your hands, and that your authority was to be respected and submitted to. The first thing, therefore, was, to see that, so far as it depended upon me, the Master of the Plato rendered the respect to that authority which is always due to it.

Had there been any necessity for my intervention, the next thing in the course of my duty would have been to see that no violation of the rights of the American flag took place in consequence of the Master's doing his duty by respecting the authorities of the Port. But I was satisfied that the rights of my countrymen might safely be left in your hands; and the very delicate and amicable course pursued by you has proved that my confidence ~~is well founded~~ was well founded.

The result of my examination of the ~~M~~Master and men of the Plato [all of whom appear to be ~~respectable~~ highly respectable mariners,] is the conviction that the book now in custody under your order has committed no offence, and ought forthwith to be delivered back to the master of that vessel. I feel it my unpleasant duty likewise to beg you to consider this communication as a complaint, in the name of the Master

of the Plato, against the individual who went on board that ship, for a flagrant breach of the peace, and a gross outrage upon the rights of the American flag in this Port.

Havana Consulate No. 137. Enclosure No. 29.

To Captain Richard Adams, Barque Navarino
of New York.

Consulate of the United States
Havana, March 15. 1836.

Sir,

Your letter of this date is just received, giving an account of the disturbance which took place on the night of the 6th. inst: between your two mates and a party of soldiers, and of the measures since adopted by the authorities of the Port with regard to yourself, your crew and vessel; and calling upon me "for that protection which is due to all American citizens and their property."

I sympathise strongly in the unpleas=ant situation of yourself and crew, which has been a subject of deep concern with me, ever since it came to my knowledge; and I should be most happy to do any thing in my power to relieve you from it, the more so from my being well satis=fied from your representations, that the mates alone had any part in this fray, and that yourself

and Sailors are altogether free from culpability in the matter.

But the mode of investigation which the Spanish Government may see fit to prescribe, or allow, to it's Officers in cases of this or any other kind is nowise under my control. It does not belong to me, as you seem to think, to pronounce the measures pursued by them in this instance, "a breach of usage, not warranted by the Law of Nations," nor to act upon any such supposition; and you are in error in supposing that it appertains to the Consular Office to "yield protection to American citizens and their property" against the regular operation of the constituted Authorities of any country they visit; however harsh that operation may, according to our standard, seem or in reality be.

The Consignees who represent the interests of your owners having, as it was proper they should, presented a petition to the supreme authority of the Island, calling it's attention to your case, I conceive it my duty, in it's present stage particularly, to abstain from all interference in it, and to govern myself by the presumption, which is especially due to the well established character of the present Chief of the Island, that it is conducted

in strict conformity with the Laws of the country, and that, inconvenient and severe as may be the mode of proceeding to which you are subjected, it cannot fail to be brought to as early a close as is permitted by the forms of Spanish law, and to result in the judicial establishment of the perfect innocence of yourself and sailors.

Wishing very sincerely that you may, and trusting that you will, very soon be relieved from your suspense,

I am, Sir,

Your Obt: Servt:

(Signed) N. P. Trist.

Havana Consulate No. 137.

Enclosure No. 30.

Sub Enclosure No. 1.

Consulate of the United States of America

Havana December 13th 1838.

Messrs. Charles Drake & Co.

Agents of Wm. I. H. Wilbur, recently master of the American Schooner Venus.

Gentlemen,

I have this afternoon received from the hands of one of the gentlemen in your employ a copy of the Expediente arising from the seizure by the Resguardo of two barrels of flour on board the American Schooner Venus, I. H. Wilbur master.

Having perused it, I perceive that the Master of the Venus has not pursued the course which I pointed out to him as the proper one if he felt disposed to press any claims which he might conceive to arise from the circumstances of the case. I told him to seek any redress to which he might deem himself entitled from the proper authorities of the country, in the mode prescribed by its laws; and that if this recourse should fail to be attended with a satisfactory result, I would then transmit his case, if presented to me, to the Secretary of State of

the

the United States.

The decree of His Excellency the Intendente of the 28th of November, after ordering the restitution of the two barrels of flour, (which on the 9th the day following the seizure, had been ordered by the Administrador to be carried back to the Venus in one of the custom-house boats,) proceeds to point out the Court of the Superintendency as the proper Tribunal before which to urge any demand ~~&~~ complaint (reclamacion) which the Master might have to make.

I have now therefore only to repeat to you what I have above stated as my reply to him.

I am, very respectfully
Your Obed.t Serv.t
(Signed) H. P. Fish.

Havana Consulate No. 137.

Enclosure No. 31.

Consulate of the United States of America

Havana February 12th. 1839.

To Don Juan Espino

Agent of Mr. I. H. Wilbur, recently master of the

Schooner Venus.

Sir,

In reply to your application for the copy of the proceedings of the authorities of this place in the case of the seizure of two barrels of flour on board the Venus by the officers of the Customs, which was delivered by you to me on the 13th of December last, I have to state that said copy being the foundation of the determination which I took upon the subject, I deem it requisite that it should be retained in this office, to be sent to the Government of the United States, in order that the grounds of my said determination may fully and clearly appear.

Believing, as I do, that but slight inconvenience if any, can result to your principal from the retention of this paper by me; inasmuch as he can procure, if necessary, another copy of the same, I nevertheless regret that he should experience any whatever.

I

I enclose herein the letter addressed by me to Messrs. Charles Drake & Co. on the 13th. of December last, and which was returned to me by Mr. Morales, on the ground that they were not, as I had supposed, the agents of Mr. Wilbur.

I am Sir, very respectfully

Your Obed.t Serv.t

(Signed) H. P. Fish.

Havana Consulate No. 137. Enclosure No. 34.

Among the numberless topics of denunci=
=ation against me, that of being "a truckler to the Span=
=ish Authorities,"-a coward, who, through dread of giv=
=ing them offence, ~~withheld~~ withheld all protection
from his fellow-citizens,—has ever been a favorite theme, and
a right profitable one, with Ferdinand Blank and his al=
=lies and tools, ~~at Havana~~ both at Havana and
in our own country. What foundation it has in
truth may be judged from the following samples.

My correspondence with the Captain of
the Port, [enclosures 26. 27. 28. of this series] which
occurred shortly after I took charge of the Consu=
=late, shows the course and the tone which I deem=
=ed it proper to maintain on occasions of the sort.

Of the following documents, the two first
[Enclosures Nos. 35. and 36.] relate to the case of the
ship Matilda, which, having got aground on the
Colorados reef, was there taken possession of by the
local authorities charged with seeing to wrecks.
The facts of the case left no doubt on my mind

that the design of those remote subordinates was plunder; and that vessel and cargo would prove a total loss to the underwriters, or to the owners if the property were not insured. A few bales of cotton would probably have been brought to Havana, to save appearances, and the bulk of the cargo fraudulently disposed of. In consequence of the course ~~adopted~~ taken by me, the superior authorities at Havana instantly adopted the most energetic measures; and these resulted in striking terror among the offenders in this instance, and all others similarly disposed, - in causing them to be very sternly dealt with, - and in the bringing of a considerable portion of the cargo to Havana, where it became a subject of compromise between the ~~sailors~~ Salvors and captain Ashby of the Matilda; who, having gone to New York, returned from that place with instructions from the parties interested.

My reward at the hands of this man, who, on his arrival from the scene of the wreck, proved so incompetent for his post, that, to obtain a decently straight account of the occurrences which constituted the ground of my complaint against the subordinate authorities, I was obliged to have recourse to his mate, who proved a strong & clear-headed man; for all the trouble I had taken in his cause, was, to be in

=suited with the falsehood, that "treble commissions" had been charged in the account rendered by me of the disposal of some fragments of the tackle and apparel of the ship which he had brought from the wreck.

The last of the following documents [Enclosure No. 41.] arose from a note address=ed to me by the Captain of the Port, a post-captain in the Navy, and a man of very noble but im=petuous disposition. One of our ship-masters having, as he conceived, treated his orders with very contemptuous disregard, he obeyed the impulse thus occasioned by writing to request, "nay, more, to exact" of me, that I would cause the offender to make a proper apology for the insult. After allowing him time to get cool, I returned his note. Under these circumstances, the manly and courageous character for which he is noted proved true to itself. He called upon me next day, to say that he had been hasty, and to ask if I was satisfied. I then sent my clerk in quest of the captain by whom the offence had been given, [unintentionally as it proved,] who, upon being accompanied by my clerk as interpreter to make the explanation, met with the most friend=ly reception. This little incident had no other effect than to confirm the cordial feelings which

she had always evinced for our flag.—

N. P. T.

To the Captain General.

Consulate of the United States of America.

Havana, November 11th 1857.

xxx

It is my unpleasant duty to bring to Y. E.'s notice a case, in which the conduct of the local authorities of one of the maritime districts of this island in regard to an American vessel has been such as to leave to her master no other course than to protest, on behalf of the owners and insurers against the Government of which those authorities are the organ.

The details of the case, I will have the honor to communicate to Y. E. at an early moment. Meanwhile, in order that Y. E. may be enabled without delay to take such steps as may seem proper, I will state, that the American Ship Matilda, laden with cotton, bound from Mobile to New York, struck on the 10th inst. on the Colorados reef, abreast of Cayo Blanco, and near to a small port called Morillo, a few leagues to leward of Bahia Honda. At that Port, Captain Ashby of the Matilda found a vessel with the assistance of which, (which he secured) he could have probably been enabled to save the greater part, or perhaps the whole of the cargo. But, during his absence from the Ship, which had been left by him in the charge of his first officer, with the second officer and the greater part of a numerous crew, she was, in

defiance

defiance of the remonstrances of the officer in charge, to take possession of by a large party from the shore, under the orders of two Alcaldes de Mar, Dn Ramon Clavell, and Dn Augustin x x x, the first of whom appeared to be chief, and who would not allow any measures for saving the cargo, to be pursued by the crew, nor by the persons whose assistance had been obtained at Morillo by Captain Ashby. The result was, that the Ship and cargo were of necessity abandoned by those who alone had any right to meddle with them. Captain Ashby after making arrangements for the transportation of his crew and passengers to this port in coasters, procured for himself horses and a guide, by means of which he reached here this day.

At any time, it would have been very disagreeable to me to have to make a communication of this nature to this Captain Generalcy. It is particularly mortifying to me, to be under that necessity during the administration of G. C. of whose friendly dispositions towards the United States I have had such repeated proofs, and whose efforts to establish good order in this country have been attended with results that have made your name familiar to my fellow citizens.

But, so illegal has been the conduct of the local authorities in question, and so injurious must the consequences now unavoidably prove to every person who may be interested in this Ship and cargo, that my obvious duty allowed me no other course than

to

to advise Captain Ashby to make a declaration of total abandonment to those authorities, and a protest in conformity thereto.

This is not the first instance in which the authorities of remote districts of the island have acted in a manner implying a belief on their part, that the moment an American vessel has the misfortune to strike upon the rocks of this coast, they possess the right to take charge of her and her crew. Deeply as I regret the present occurrence, the necessity of calling G. E.'s attention to it is attended with one consolation: the belief that it will result in making generally known and respected along the coast of the island, the truth, that so long as the Master of an American vessel, or any one put by him in charge of her, or anyone of the crew or passengers upon whom the charge may legally devolve, shall see fit to retain his command, no one whatever has any right to take it from him, nor to interfere with him or his crew in any way, under the pretext of saving the ship or cargo, or of taking their declarations, or under any other pretext whatsoever; unless it be at the clearly expressed request of the lawful commander of the vessel, and in the manner and degree justified by that request.

Until this truth shall be clearly understood, and be rigidly conformed to with regard to every American vessel that may meet with any accident upon this

coast,

[illegible] of the Navy will sincerely
remove [illegible] any unpleasant duty [illegible]
the mortification to perform [illegible]
[illegible] with the highest consideration
[illegible]
Signed N. P. Trist.

vana Consulate No. 137. Enclosure No. 36.

To the Comandante General de Marina.

Consulate of the United States of America

Havana, July 16. 1838.

Sir,

I have the honor to acknowledge the receipt on the 13th inst. of your office of the 9th with the accompanying testimonio of the final proceedings in the case of the American Ship Matilda. These have been examined by me at the earliest moment permitted by other urgent duties, and will, together with all previous papers on the same business, be transmitted to the Secretary of State of the United States; to whom they will, I doubt not, prove a source of great satisfaction, as an evidence of the determination of the higher authorities of this Island, to hold those of a subordinate class to the strictest accountability for the use of the powers entrusted to them: powers, which from the nature of the circumstances to which they relate are necessarily liable to the grossest abuses, whereby the dangers, sufferings and losses attendant upon shipwrecks are aggravated instead of being lessened; and which nothing short of the most active vigilance and energetic justice can prevent on a coast so extensive and so thinly peopled as that of this Island.

The point in regard to the right of American vessels which may have the misfortune to touch upon the reefs & shores of this Island, to be exempt from all authoritative interference, so long as the master or other person to whom by the laws of the United States the custody and command of such vessel may belong, shall see fit to retain it, - which point was assumed by me in the communication which I had the honor

to

to address to His Excellency the Captain General under date of the 4th November 1837 — saying that it is deemed by the proper authorities of this Island to be inconsistent with their Line of duty on such occasions, as marked out by the Laws of Spain, will be left by me for discussion between our respective Governments.

I have the honor to be, Sir, with great consideration,

Your Ob.t Serv.t

Sr Dn Juan Bautista Topete y Viaña

&c &c

Comandante General de Marina

&c &c &c

Havana Consulate No. 15. Enclosure No. 37.

To the Captain General.

Consulate of the United States of America
Havana, May 2. 1838.

I beg leave to represent to Your Excellency that the American Schooner Harmosa of New York, belonging to Citizens of that state, is detained here by the Custom house under circumstances extremely injurious to the owners of the vessel and of the Cargo, as well as to a large number of persons, who, counting upon her certain departure on Monday afternoon last, had taken passage in her: which detention, after being patiently endured for three days, now places the master under the disagreeable necessity of making, on his own behalf and that of all concerned, a formal Protest against the Government of Her Catholic Majesty; and must if persisted in, place him under the further necessity of

making

making an entire abandonment of the Vessel and property entrusted to his charge, under the guarantees of the laws of Nations.

Said Vessel, which, I repeat is owned by Citizens of the United States whose names appear on the Register that she carries for her protection, arrived here from New Orleans about the 29th of March last, consigned to the house of Don José Vargas, to whom also was consigned a portion of her Cargo, the Chief consignee of which was the house of Don Carlos Drake & Co.

Upon the disappearance some days since of Don Nicholas Vargas, the Attorney of the house of Don José, (by which event the owners of the schooner have lost all the freight carried by her from New Orleans to this port, which was in the hands of said house) the Captain put his business into the hands of Don Carlos Drake & Co, by whom she was got ready for sea on Monday last, when application was made at the Custom-house for her clearance.

This

This was then denied; upon the ground, as I am informed by the Captain, that the house of Don Jose Vargas being largely in debt to the Royal Customs all his property was liable to seizure on that account; and it was therefore necessary to institute an enquiry whether the Schooner Hermosa did not come under that category.—

To prove that she did not, the offer was made on the part of the Captain, to produce her Register, which is the Document furnished by my Government to Vessels of the United States visiting foreign ports. In that document, the name of the owner of the Vessel always appears; and under the laws of the United States, which follow their vessels in every part of the globe, so great is the face attached to this evidence of ownership, that it would every where subject the Hermosa to seizure for the debts of those persons who, in her Register, are named as her owners.— Notwithstanding the high character of this —

Document

making an entire abandonment of the Vessel and property entrusted to his charge, under the guarantees of the laws of Nations.

Said Vessel, which, I repeat is owned by Citizens of the United States whose names appear on the Register that she carries for her protection, arrived here from New Orleans about the 29th of March last, consigned to the house of Don Jose Vargas, to whom also was consigned a portion of her Cargo, the Chief consignee of which was the house of Don Carlos Drake & Co.

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Document

Document, this proffer of it was declined; and the Hermosa is detained here in order that an enquiry into her ownership may be carried on: a proceeding in regard to which it is not less difficult for the master to imagine any possible ground, than to conjecture how long it is destined to last.—

The only motive that appears on the face of the proceeding is, that Don Jose Vargas is in debt to the Royal Customs, and that the Schooner came here from New Orleans consigned to his house. It cannot be necessary to state to Y.E. that the Government of the United States can never consent to consider a mere surmise, resting upon a basis so entirely fallacious, as a sufficient justification for breaking up the commerce of its citizens, subjecting their vessels to idleness, the property embarked therein to damage and loss of markets, and the persons depending upon their movements to the serious loss and inconveniences of all kinds resulting

resulting from such detentions.

I am sensible that the consideration due to each other by friendly nations requires that the proceedings of their respective authorities upon occasions of this nature should be examined with a liberal eye; but it equally requires on the other hand that such proceedings should be marked by a delicacy, which I regret not to perceive any manifestation of in the present case, so far as its features have become known to me.

It gives me the more concern to be under the necessity of making this complaint, which I do present to Your Excellency most formally and emphatically and with the most solemn Protest against the course which the Custom-House is pursuing in the case, because I — have often had occasion to return thanks to the Excellent Gentlemen placed at the head of the branch whereof the Custom-House is a dependency, for the agreeable and —

satisfactory

satisfactory manner in which my intercourse with that branch has ever been conducted.—

I have the honor to
Your Excellency's
Obt. Servt.
(Signed) N. P. Trist

His Excellency Don Joaquin de Espleta
&c &c
Capitan General
&c &c &c

Havana Consulate No. 137. Enclosure No. 38.

From the Captain General.

Captain Generalcy
of the
Ever Faithful
Island of Cuba.

Upon receipt of Your Lordship's communication under date of yesterday relative to the detention of the American Schooner Hermosa, I made it known to His Excellency the Intendente, in order to obtain the necessary information on the subject for replying to Your Lordship: of which I advise you as a provisional reply.

God preserve Y.L. many years. Havana, 3rd of May 1838.

Joaquin de Espeleta.

To the Consul of the United States of America.

Havana Consulate No. 127. Enclosure No. 39.

To the Captain General.

Consulate of the United States of America

Havana May 6. 1835.

I regret to be again under the necessity of troubling Your Excellency with a new case, similar in every respect, so far as I can learn, to that which forms the subject of my ofice of the 2nd inst; in provisional reply to which I have the honor to acknowledge Your Excellency's of the 3d inst.

The American Schooner Mexico of Mobile, belonging, as appears from her Register, to Mr Jacob Baptiste a citizen of the United States residing at that place, has like the Schooner Hermosa, been allowed to take in here a cargo for New Orleans, part of which is of a very perishable nature, and the whole requires to be brought immediately to market; and after getting ready for sea, the Captain is informed by the Collector of the Royal Customs, that his Vessel cannot be despatched; because, having come consigned to the house of Dn Jose Borgas of this City, she may be his property! —

That

That the Captain should be insensible
to the force of the logic which, from the hou
occurring circumstance of an american ves
arriving here, enables the Royal Custom-ho
to deduce the presumption that she belong
to the Consignee in this City; and, in the
face of the proof afforded by her Register
to act upon that presumption, to the
extent of detaining her after she is ready
for sea, - that the Captain should be
insensible to the force of this logic, will n
I believe, excite any more surprise in Your Excel
than that he should be keenly alive to what
appears the very unnecessary aggravation of th
damage and inconvenience to himself, his
owners, his freighters and passengers, resultin
from the choice of the moment for springin
this mine upon him; which is made, with
previous notice to any one, to explode at th
very point of time when the injury and
disappointment to all concerned would
necessarily be greatest. Permits are taken ou
for the outward cargo, and the export duti
are paid into the Custom house, where

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a word is said; the cargo is laden, every arrangement is made, the fresh fruit is taken on board:- and then, at a moment when the Captain fancies himself already at sea, he is told that he must be detained! He asks the reason; and he is astounded by the doctrine which I shall leave it to my Govern=ment to qualify by the epithets which may be deemed appropriate to it.- I cannot however, but express my surprise, that zeal for the recovery of the Amount due by the house of Vargas to the Custom-house should have so far blinded its officers as to make them insensible of the character of a proceeding, the least of the objections to which, perhaps, is, that while on the one hand it cannot but fail of its object, it cannot on the other fail to aggravate the pecuniary loss to the Royal Treasury, by establishing against the Crown a claim for indemnity, the justice of which is too obvious not to command immediate assent.—

In conclusion, I have to perform the unpleasant office of entering, in the name

name of all concerned, this my Protest against this proceeding; and informing Your Excellency that the Captain of the Mexico, besides calling upon me to take this step, has formally notified to me his determination to abandon his ves- unless he "be suffered to depart without delay."

I have the honor to be, with the highest consideration, Your Excellency's Obed. Servt

H. P. W.

H. E. Don Joaquin de Espeleta
&c &c
Captain General
&c &c &c

Havana Consulate No. 137. Enclosure No. 40.

To the Captain General.

Consulate of the United States of America
Havana, May 16th 1838.

I have the honor to acknowledge the receipt of Your Excellency's oficio of the 11th inst, communicating to me the provisional reply of H.E. the Intendente on the subject of my two oficios to Y.E. concerning the detention of the American Schooners Hermosa and Mexico.

As H.E. the Intendente states his intention to make a further communication to Y.E. upon this subject, I shall postpone the transmission to my Government of the Oficios which have already passed, until I can transmit also the communication referred to.—

I have the honor to be, with the highest consideration Your Excellency's — Obt. Servt

N. P. Trist.

His Excellency Don Joaquin de Espeleta
&c
Captain General

Havana Consulate No. 137. Enclosure No. 41.

To the Captain of the Port.

Consulate of the United States of America
Havana, Saturday Morning
May 19th 1838.

Sir,

Your ofcio of yesterday, delivered to me between the hours of 2 and 3 in the afternoon, would have been returned to you immediately, had not the strong wish by which I am ever animated to maintain the most friendly relations with all the public functionaries of this place, governed me on this occasion, to the extent of causing me to postpone that step until you should have had time to recover from the state of irritation in which it was evident by written.—

It is now returned, under the conviction on my part, that a perusal of it in a cooler moment will satisfy you that its tone is such as to put it out of my

power—

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power to pursue any other course with regard to it.

I am Sir, Very respectfully
Your Obt. Servt.
(Signed) N. P. Trist.

Don Juan de Montaño,
Post Captain in the Royal Armada.
Captain of the Port.

Havana Consulate No. 197. Enclosure No. 42.

Attitude with reference to aggression from Officers of Foreign Powers.

The Consulate at Havana was taken charge of by me in March 1834. Early in June of that year, the captain of an American ship then in port [whose name, and the name of whose vessel I have forgotten] called upon me to ask my advice in regard to the course he should pursue under circumstances wherein he expected to be placed in the course of that forenoon. One of his sailors, an Englishman, had absented himself the day before, and, on his return, had given out to his messmates that the commander of a British vessel of war then in port had promised to send a boat to take him and his effects out of the American ship. In the event of his receiving such a visit, what course was he [the Master] to pursue.

I told him that to my mind it was perfectly plain that there was but one course at all consistent with a proper respect for either his

own rights, or those of his country's flag; and this was, to forbid all persons pretending to pay him such a visit from setting foot upon his deck; and if they should persist, then to knock down the first man [singling out the officer in command if he could] and to go on knocking down until he should have cleared his deck, or be overpower=ed; in which latter case, to haul down his colours and come to me. His eye glistened and his face beamed at this advice; and he left me under the full persuasion that there was no danger of his submitting to any such insulting ag=gression unless it should be from mere in=certainty as to how far it might rightful=ly be repelled.

The next day, or the day after that, I crossed the bay in company with my friend M. Tolmé, the British Consul, on our way to dine with the British Judge Commissioner under the slave-trade sup=pression treaties. Just after landing, I was hailed by an unknown voice. It proved to be that of my client-captain, who wished to inform me that the threaten=ed visit had not been paid.

M. Tolmé had walked ahead; and upon overtaking him I mentioned the case, and stated the view I had been led to take of the subject, and which would not allow me to give any other advice in a case of the sort than to consider any such pretension on the part of a man-of-war of one nation towards a merchantman of another as a flagrant violation of right, which could be submitted to only when enforced by a resistless power. When a sailor had fairly engaged his services on board an American merchantman, it belonged not to any naval commander of any foreign power to take him out of that merchantman.

At periods subsequent to this, some questions of a similar character arose between the two flags; but they were arranged without difficulty, owing doubtless in a great measure to the influence over his countrymen of the Royal Service belonging to a character such as M. Tolmé's, at the same time one of the most sensible, the most benevolent, and the most amiable of men.

In November 1836, the case occurred between myself and the British Commissioners, which, for my object here,

sufficiently explains itself on the face of the following correspondence, that is made the subject of remark elsewhere. In November 1838, another case occurred, similar to that of June 1834. How it was met by me will be seen from my letter to the Captain General Enclosure No 46. J. That letter was never delivered. So soon as it was written and given to my clerk to copy, I went to call on the Captain General, in order that he might be immediately apprized of the serious question that would be presented for his action. After stating the case and explaining the principles which governed my course, and which I thought should govern his, I returned to my office. Before my letter could be got ready for transmission, the master of the "Vermont" [illegible] a remarkably tall and athletic man, who had seemed nothing loth to adopt the advice given him. I revisited the Consulate, to inform me, that the sailor had been returned to him from the British man-of-war. Of course, the matter was dropped.

I will add here, what I have taken occasion to say elsewhere, — that my course

on this

on this subject was not adopted through irritation nor (of temper) hastiness. It was the result of a deliberate conviction that it is both right and politic; that it is the only course compatible with the proper maintenance of the right of any independent flag, and that such a (handsome) commentary upon the Law of Nations as that here advised by me, written by a Yankee hand, would do more to awaken the attention of Christendom upon this vitally important point, and to bring "the Termagant of the ocean" to her senses in regard to the rights of other nations upon the great highway which belongs to all alike, than all the editions of Grotius, Puffendorf, and Vattel which the press, even in these days of steam-printing, could send forth.

A. P. T.

Havana Consulate No. 137. Enclosure No. 43.

To the French Consul General.

Consulate of the United States of America
Havana, June 28th 1838

~~To the Consul General of~~
~~His Majesty the King of the French.~~

Sir,

Two American mariners have this moment presented themselves at this Consulate with a statement so very extraordinary as to be scarcely credible, but which nevertheless places me under the obligation to cause the truth to be enquired into by such means as I may, on their behalf, command.

Their names are Charles Robinson and John Ferret; the former of Brooklyn, New York, the latter of Philadelphia. They state that on or about the 12th. of last month, they shipped at New York, in the French Bark "La Paix" for the voyage to Charleston, South Carolina, and so further, for the sum of ten dollars, "by the run": this being the phrase in common use among American and english seamen for expressing an engage-ment for one single "run," a voyage from one port to another, when they take the chance of it being long or short, by stipulating for a fixed

sum

sum, without regard to time, instead of wages by the month. The younger of these men, John Ferret, whose appearance and conversation indicate an intelligence and respectability above the ordinary standard, assures me that these words were written down opposite — their names on the "shipping Articles," a contract: for they took special care on this occasion to secure against all mistake by seeing that this was done before they put their names to the paper.

On their arrival in Charleston, as they allege, the Captain instead of giving them their discharge, as he was bound to do, if their account of the contract be true, put them in irons, and confined them in the hold of the vessel, without the means of communicating with the shore, upon very low diet, consisting of water and a very scanty allowance of biscuit, until hunger compelled them to submit to his dictate, and to promise that, as they found themselves in his power, they would work if he would feed them.

This is the history they give of their voyage to this port; where, they say, they have to-day been discharged at your Consulate.

Ferret ascribes the conduct of the Captain, not to any deliberate design to inflict such wrong upon them, but to his ignorance of the english language,

which

which prevented his understanding the meaning of the words expressing the special contract entered into by them, and made him deaf to all attempts to satisfy him upon the point. He very justly, however, re-
-marks that the circumstance of their wages being set down at ten dollars, instead of eighteen dollars, which the Captain knew to be the then ruling rate at New York for men shipped by the months, ought to have satisfied him of his error.

If it could not have the effect of open-
-ing his eyes entirely, it ought, unquestionably, to have shaken the confidence which he seem to have entertained in himself; sufficiently at least, to induce him to seek information and advice in the City of Charleston, instead of persevering in a course, which, whatever may be the palliation that it may derive from the circumstances of the case, cannot be viewed in any other, than a very serious light.

In order to avoid all necessity of having recourse, on behalf of these men, to the authorities of this country, I beg leave to trouble you with the request that you will inspect the Contract under which they were brought from New York, and inform me how far it affords confirmation to their statement. Feeling assured that such

a

a course on my part will best accord with the feelings and the wishes of both our governments, my purpose is, to send a copy of this letter and of your reply to Washington; whence, should the fact prove of a nature to require it, an appeal against the offender addressed to the French Government, will undoubtedly be attended with all the results which could be wished for here.

I have the honor to tender, Sir, the assurance of the very distinguished consideration of, Your Ob.t Serv.t

N. P. Trist.

Havana Consulate N°. 137. Enclosure N°. 44.

(Translation)
Consulate General of France in the Island of Cuba
Havana June 30. 1838.

Sir, & dear Colleague,

Whenever a french sailor, shipped on board of one of your merchant vessels, comes to me with a complaint against an american captain, I send him to you. In reply to your letter of the 28th instant, I now send to you the Chancellor of this Consulate, with the Shipping Articles cited by you. You will there see, with surprise, doubtless, that every body is in the right: the master of the "La Paix", however, more than any one; inasmuch as he was not notified, — he who does not understand English, — of a statute slipped in without his knowledge, and which, moreover, had but ~~an uncertain~~ a very indefinite a very questionable value for those who invoke it, since it does not apply any more to Charleston than to Havana. (a)

Accept, Sir, & dear colleague, the assurance of my very distinguished consideration.

Mollien.

(a) The heading of the Shipping Articles

proved

proved to be as follows:

"Bound from the Port of New York to Charles-
ton, S.C. from thence to any other port or place the
Master may direct until she returns to France."

Then, below, in the place for signatures, were
the following:

"John Ferat — By the oath $10.
Charles Roberts $10. "

Havana Consulate No. 197. Enclosure No. 45.

To the French Consul General.

Consulate of the United States of America

Havana, July 2nd, 1838.

Sir,

I have to make my acknowledgements for your favor of the 30th ult., and your politeness in sending for my inspection the contract signed by the two men of the Ship "La Paix," the perusal of which has confirmed the impression made by your letter, that the Captain could not be considered as blameworthy in this business. — I will, therefore, take leave of the subject, by stating in reply to the opening observation of your letter, that I, too, make it a general rule, in cases of complaint by American Sailors belonging to Foreign vessels, to refer them to the Consul of the same flag; and if that rule did not govern me in the present case, it was because the very ground of complaint affirmed that they had been brought here by force, and without belonging to the Ship.

Allow me, Sir, to take this opportunity to ask the favor of you to inquire into the circumstances of the following case: which belongs to a subject of great interest to us all, but of very great importance indeed, to this Consulate. I refer to the rule, for the prevention

of

of desertion among sailors, that none shall be on shore without the permit from the Captain of the Port; a rule the strictest maintenance of which is to our navigation here a point of the greatest moment.

During the last month, a mariner was received at the boarding-house, in this city, of Mr Daniel Warren, in consequence of his being provided with a permit from the Captain of the Port, in the ordinary form dated the 20th June and stating his name to be Ramon Quitano, and that he disembarked from the French Frigate of war "L'Antigone" properly authorised by his Consul.

This mariner was seen there by an American Captain who immediately claimed him as a deserter from his Ship, the "Triton"; which he acknowledged himself to belong to under the name of Isaac Munroe. Now, the question is, how this man managed to procure this permit of the Captain of the Port. — The probability is, that it was by means of a forged certificate, in the form used at your Consulate; and I should have sent to the Captain of the Port to ask to see this pretended Certificate from you, did I not deem it more respectful to leave this to be done by yourself. — I enclose the permit from the Captain of the Port, which I request

request you will take care of and return to me.

I beg you, Sir, to accept the highly respect- -ful and friendly salutations of Your Ob.t Serv.t

N. P. Trist.

To the French Consul General

Havana Consulate No. 197. Enclosure No. 46.

To the Captain General.

Consulate of the United States of America
Havana, November 28th 1838.

A case has just arisen, which places me under the disagreeable necessity of calling upon Y.E. to afford to the flag of the United States the defence against foreign aggression, to which, while in this port, it is entitled at your hands.

The circumstances are as follows: the American Brig "Vermont" of Warren, Rhode-Island, entered this port on the 10th of this month from the port of Warren, whence she sailed on the ..
One of the crew brought here by her, a seaman who had shipped at Warren on the 22d of October last, under the name of John Brown, walked ashore yesterday morning, and nothing was heard of him until this day at about 10 A.M., when a boat from one of the British vessels of war now lying in this harbor visited the "Vermont", with a message that John Brown had given himself up as a deserter from the British Service, and a demand for his effects.

The

The master of the "Vermont" came immediately to this Consulate to ask my advice as to the proper course for him to pursue; and the advice which I gave him was, that he should forbid any man from any British man-of-war to set foot upon his deck on any such errand, and to knock down any officer who might persist in so doing. I desired him to return immediately on board his vessel, to see that she was not violated, and informed him that I would take all the steps which the case might require.

The vessel which has harbored this deserter is Her Britannic Majesty's. [a] and as she may be on the point of sailing and may avail herself of this change in the weather to leave port, my first duty is, to call upon Y. E. to prevent her doing so with this man on board, until the question shall be settled whether he truly be a deserter from the British service.

The principle which has always governed my own course in regard to cases of this kind, whether occurring between two American vessels, or between an American vessel and one of another nation, is, that a Ship-master who has bought the services of a seaman who already owed them to another

vessel,

(a) The master of the "Vermont" stated that there were several British vessels of war then in port and that he could not tell which of them the boat had come from. The event precluded all necessity for any on this point.

vessel, is in the same predicament as the purchaser of a stolen horse, and must give him up. This is a clear rule of justice, which applies with precisely the same degree of force, whether the case be between vessels of the same or of different nations, and whether they be merchantmen a men of war.

But it is contrary to every principle of right, that the claimant in such a case should assume to be the judge, and to carry his judgment into execution; and as the tendency to this violation of right is greater in the commanders of armed vessels than in those who, from want of power, are naturally thrown upon legitimate means of redress, it is therefore the more necessary in regard to the former to insist against any deviations from the proper line of conduct.

This I regret to say, has not been observed on the present occasion. The Commander of the has been guilty of a violation of the rights of the Brig "Vermont," in harboring the man in question without instantly adopting some course evincing a disposition on his part to have the question of his right to do so fairly judged: one obvious mode of effecting which was to communicate on the subject with H. B. Majesty's Consul, who would, I am sure,

have

have lost no time in apprizing me, of the claim and the grounds on which it rested. And he was guilty of a further violation of those rights in sending a boat on board the "Vermont" with a demand for the man's effects: first, because this implied a decision on his part that he had a right to keep the man; and secondly, because no foreign man of war of any Nation has the least right to hold, under any circumstances, any direct communication of this nature with any merchant-man under the American flag; implying as it does an authority over her which has no existence, and the pretension to which, however manifestly an usurpation in the eyes of one acquainted with the subject, is directly associated with a display of power calculated to impose on any person not fully aware of his rights or not fully prepared to maintain them.

I shall immediately make it my business to apply to the British Consul to take the necessary steps for bringing this case to a proper settlement. Meanwhile I repeat my request that Y.E. will take those requisite for preventing the departure of the from this port with John Brown on board until her right to him shall have been established. —

I have the honor to be, with the highest consideration, Your Excellency's Obed.t Serv.t

N. P. Trist.

His Excellency Don Joaquin de Arpeleta
&c &c &c
Captain General

Havana Consulate No. 137. Enclosure No. 47.

Pier or Landing Place at Havana.

In the spring of 1838, General Tacon, upon giving up the Captain Generalcy of the island of Cuba to his successor General Espeleta, published a sketch of his administration, embracing an account of the various works of public improvement executed under it. Of these, eleven in number, one is the Mole, or landing place, whereof the book gives the following notice:

"The Mole

"There was none for the persons of all clases and nations who visit this frequented place to land at. They jumped on shore in front of the Captain of the Ports' office; and this was attended with no small difficulty, owing to some of the stones of the wall having fallen out, and most of the rest being loose.

"The commercial clafs, ever well disposed towards whatever is useful and bene

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=ficial, manifested its gratitude, by present-
=ing to me through the Bank so soon as the work
was commenced, by presenting to me, through
the hands of Don Miguel Viada, and
Don Jose Tosar, the sum of $4503 to be
used in its completion. I accepted this hand
=some mark of liberality; but as, before engag
=ing in the work, I had provided the requisite
means, I left the sum in the hands of those
gentlemen, with an order to import from
Barcelona blocks of superior granite for
stairs of the mole, which were quickly fur
=nished; and from Genoa an elegant
marble fountain surmounted by a colossal
statue of Neptune, which, besides adorning
the spot, affords a most commodious supply
of water to the shipping."

(a double page to be left free)

The public work here spoken of is,
no doubt, the handsomest and most conveni
=ent landing place for boats, that exists in
all America. It is very extensive, and al
=ways entirely free; and has also the great
advantage of being immediately under the
eye of the Captain of the Port and the senti
=nels constantly posted there, and of being al
=so prohibited ground [except for the mere

purpose of landing passengers and shoving off to the harbour ferry-boats. The annoyance formerly caused by these to the masters and sailors of merchantmen may be judged of by the following letters addressed by me on the subject to the Captain General. They were the origin of this improvement: a fact which until recently, no one at Havana had any suspicion of; and had even. So little used am I to dwell upon what I may have done — once it is done — for myself or others I been dismissed entirely from my own thoughts, when recalled by the necessity, produced by the preposterous inventions of calumniators, to look back upon my course.

It will be seen, that the law adviser of the Captain General opined that the suggestion made by me, that a small space (about fifteen feet in length) at the water's edge should be exclusively appropriated to the boats of merchant vessels, could not be acceded to. General Tacon adopted that opinion and conformed to it; but, his attention having been thus called to the subject, but a short time elapsed before the work was fairly

under way which secured a space of twenty times the extent of that asked for, together with conveniences never dreamed of until their construction was seen to be begun.

N. P. T.

Havana Consulate No. 137. Enclosure No. 48.

To the Captain General

Consulate of the U. S.
Havana, June 16. 1835

On the 13th: inst: Joseph E. Munroe master of the American Brig William, of Portland, presented himself at this consulate and represented as follows: On that day Captain Munroe went down to embark in his boat, which was waiting for him at the wharf near the custom house. He found his boat surround-ed by others belonging to the boatmen of the port, in such a way that she could not be push-ed out without their moving a little. After get-ting into his boat with another American cap-tain he requested the said boatmen to slacken their ropes so that he might get out, which they all refused to do. After a great deal of trouble he succeeded in almost extricating his boat, when one of said boatmen suddenly pulled up a rope which still lay in his way, with such violence that it was very near throwing both the captains into the water.

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Captain Munroe then got a knife ready and told this man that if he did not leave his rope as it was before, so as to let him pass, he would cut it; and upon the other's persisting he did cut it. Immediately the said boatman threw a heavy stick of wood at Captain Munroe, which he dodged, and it went on and struck violently on the head one of his mariners, a lad about 16 or 17 years of age. Seeing this, the boatman who had thrown the stick jumped on shore and ran, and was pursued by captain munroe, who caught him and delivered him to the guard. The wounded lad was taken to the Hospital of San Juan de Dios, and Captain Munroe having applied for him there, has been inform = ed that he cannot be discharged without an order from V. E. — I have therefore to request that V. E. unless some reason should exist against doing so, will do me the favor to give the necessary order, so that this unoffending lad may be no longer kept in confinement.

Havana Consulate No. 137. Enclosure No. 49.

To the Captain General

Consulate of the U. S.
Havana, June 17. 1835.

Loth as I am to trouble Your Excellency, I am constrained to do so on the subject of a very grievous inconvenience which bears with peculiar harship upon the Masters of American vessels, who, on account of their numbers, are much more subject to it than those of other nations.

The inconvenience referred to arises from the conduct of the boatmen of the port, most of whom as it is represented to me in a way which leaves no doubt, take every opportunity to insult the masters of our vessels by the most abusive language, and to put every possible obstacle in their way when approaching the wharf in their boats or leaving it to return to their ships. It frequently happens that they intentionally exclude the boats of our vessels from approaching the wharf, and at the same time forbid the captains to step on board their boats

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to get ashore. In a port so frequented as this is, and the landing places of which are constantly lined by the boats of the port, the most accommodating spirit is necessary on the part of the boatmen; and if the contrary spirit prevail among them, as it in fact does to a very great degree, it is every hour almost, in their power to subject the Masters of merchant vessels to intolerable annoyance. This annoyance is so severely felt by our captains, that I must beg leave to request Y. E. to give to the subject the earliest attention allowed by Y. E's multifarious and important duties. The most direct and easy way of putting an end to these difficulties would be to assign a certain portion of wharf for the exclusive use of the boats of the merchant vessels, forbidding them to land anywhere else, and forbidding all other boats to land there or to approach it so near as to present any obstacle to the free coming and going of the boats to whose use it is appropriated. Should this plan appear to Y. E. worthy of adoption, I would beg leave further to suggest that the north end of the commercial wharf would be a proper point for the purpose, being very near the office of

the Captain of the Port, and directly under the eye of the guard always stationed there. It is a very small portion of the wharf, but I am satisfied that merchant captains would rather be restricted to any space, however small, than continue subject to the many vexations arising from the misconduct of the boteros.

Havana Consulate No. 137. Enclosure No. 50.

From the Captain General.

Presidency & Governorship
of the
Ever Most Faithful
City of Havana

The honorary Counsellor of the Supreme Tribunal of War, and Auditor, of this Place, has, under date the 11th inst., given to me his opinion and advice as follows:

"Most Excellent Sir, The grounds upon which the Fiscal's representation rests are, in the ~~opinion~~ judgment of the Auditor, just; and he is of opinion that the appropriation of a small portion of wharf for the exclusive use of the boats of merchant vessels ~~it not to be acceded~~ to which is proposed by the Consul of the United States in his present communication, is not to be acceded to. But as disturbances which may draw after them disagreeable consequences are to be guarded against, Your Excellency may be pleased to enjoin upon the Captaincy of the Port the most active vigilance, instructing ~~him~~ it in regard to all contained in the Consul's letter."

And conforming to this advice & opinion, I transcribe it to Your Lordship in reply to your letter of the 17th of June last on this subject, enclosing also

a copy of the Fiscal's opinion which is cited. God preserve Your Lordship many years. Havana 17 of August 1835.

Miguel Tacon

To the Consul General of the United States.

[Fiscal's opinion enclosed in the foregoing]

Most Excellent Sir, The Fiscal says, that the designation of a spot on the wharf of this Place for the exclusive use of the Anglo-Americans, (a) recommended in this official letter of their Consul, under pretext of the partial rencounters with the Boatmen of the harbour, is not to be acceded to. In the first place, because this would give to the Subjects of the other Nations who frequent this market a right to ~~the~~ claim the same; and in the second place, because if the police of the Port proved insufficient to maintain the good order and harmony that are observed, the complaint, substantiated, would justify the exemplary punishment of the offenders: in regard to which, the Fiscal ~~x the~~ is

of

(a) This will be perceived to be a misstatement of my recommendation. This was, that a small part of the wharf should be appropriated to boats of merchant vessels, generally, and not of the United States in particular. N.P.T.

of opinion also, the most active vigilance be enjoined upon the Captaincy of the Port. Havana, August 11. 1835. Most Excellent, Sir,

Pedro de Alcantara,
Fiscal.

Havana Consulate N°. 137. Enclosure N°. 51.

Attention to Commercial Interests.

This head has furnished another item of the utter incompetency, infidelity and inefficiency, which strangers to my character have been made believers in. How far that belief is founded in justice, may be judged from the following specimens.

At the time of my appointment to the Havana Consulate, the discriminating tonnage-duties, in force in the islands of Cuba and Puerto Rico against our flag, threatened to banish it altogether from the trade between those islands and our country generally, as it already had done, almost entirely, with respect to the ports of New Orleans, Savannah and Charleston, and, to an alarming extent, with respect to the port of New York.

In the President's annual message of the following December, the attention of Congress was called to the subject; and the countervailing

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Act which passed at that session, by subjecting Spanish vessels in our ports to the same bur=thens identically which were imposed upon our vessels in their ports, restored the equilibri=um, and revived in our navigation the activi=ty naturally belonging to it. The shipping of the two countries now stood upon the footing of absolute equality; and the only objection to the process by which that equality had been restored, and ~~maintained~~ was maintained, was, that the tax to which our vessels had been sub=jected by the Spaniards being now extended by us to their vessels, so that it could no longer be escaped under either flag, the hindrance to trade between the two countries was, to the same extent augmented.

Although this proceeding on our part afforded no just cause of complaint, yet it proved productive of very extensive and deep irritation. Under the stimulus of the heavy discriminating duties with which our flag was borne down, the Spanish merchants had been rapidly augmenting their bottoms; and, their Government remaining deaf to expostulation on the subject, they had every expectation of profit=ably continuing to substitute Spanish for American vessels until the monopoly in their hands should

be complete. But our countervailing act passed, and the stimulus which had produced this artifi-cial excitement was suddenly deprived of it's virtue. The disappointment produced wide spread exasperation; and the danger was not smale, that their government might be in-duced to attempt by a new discrimination, to restore the advantage which had thus been nulli-fied. Under these circumstances, it became highly important to the trade between the two countries, — already seriously hindered by the heavy reciprocal tonnage-tax in force, — that the Spanish authorities and merchants should be made to understand the settled policy of our country upon this point. If made fully aware of the utter hopelessness of a struggle against it, and that it could not possibly prove any thing else than a war of discriminations and counter-discrimina-tions, each falling with deadning effect upon the interchange of commodities, whose activity could alone give importance to the carrying trade, they could not fail to desist from their purpose to force the latter by artificial contrivances.

For this purpose, was the first of the following letters addressed to the Comte de Villanueva, to whose enlightened views and great ability, as chief of the industrial and fi-

-nancial branch of public affairs in the island, it's present commercial prosperity is attributed.

The object of the second was, to awaken attention to the enormous discriminations, practically resulting from their tariff, against the productions of our country; and to their natural tendency to alienate the best customer the island has. So long as the civil war which was, and still is, desolating the mother country, should last, daily rendering her necessities for revenue more immediately urgent, there could be no hope of a lowering of duties; the first effect of which might be to lessen their amount. Still, to open their eyes to the light in which the subject must be viewed in our country, could not but have the good effect of rendering them careful how our trade was tampered with, in the measures which the wants of the mother-country, or local interests there, were daily calling for.

The last of these enclosures is a specimen of the occasions for consular assistance with the authorities, to which the headlong spirit of enterprise that distinguishes our countrymen gives rise.

N. P. T.

Havana Consulate No. 137. Enclosure No. 52.

To the Intendente.

Consulate of the United States,
Havana, April 28. 1835.

I beg leave to offer for Y. E.'s acceptance some publications relating to the commercial & financial affairs of the U. S., which I have received for that purpose from the Secretary of the Treasury, to whom I had transmitted a copy of the Aranceles Generales furnished to this Consulate through Y. E.'s solicitedness. They consist of the first volume (the second not being yet published) of a digest of the Commercial Regulations of all the foreign nations with which the U. S. have intercourse; of the last published annual Statement of the Commerce & navigation of the U. S., and of the last annual report of the Secretary of the Treasury on the finances of the U. S.

With these documents, I send, because it is in the french , with which Y. E. is conversant, a copy of the existing commercial [illegible]aty between the U. S. and the Empire of Russia. As it is the only copy I have in this form Y. E. will excuse its rumpled and dirty appearance. My object in sending it is, to invite Y. E.'s attention to the principles of commercial intercourse which it establishes, & which have also been established by treaties with Prussia, the Hanse towns, Denmark, Austria, Sweden, & several other countries. These are the principles which the U. States have offered to the world, and the obvious merits of which have already secured their adoption by many nations, as they can scarcely fail to do, sooner or later, by all. These are the principles on which I indulge the hope of seeing placed the commerce between this island and the U. S., already so

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so important to both parties, & the natural tendency of which, unless counteracted by artificial causes, must lead to its immediate extention.

The Commercial policy of the U. S. has rested upon this basis, ever since they have been a nation; and they have never suffered any cause whatever to induce them to depart from it. Some times they may have appeared to do so. But in such instances they were only suspending the operation of the principle, in order to allow time to other nations to decide whether they would accept the policy offered by the U. S. or oblige the U. S. to have recourse to countervailing duties. The most striking illustration of their firm adherence to it is to be found in the history (contained in the volume which I offer to Y. E.) of the trade between the U. S. and the British colonies in this part of the world. The U. S. said to Great Britain, as they said to all the world, our Ports are open to you: We wish to admit Your vessels on the same terms exactly as we admit our own; this is the true way to make Commerce flourish. But, to enable us to do this, the liberty must be reciprocal. Otherwise we should be unjust to ourselves. If you persist in making discriminations of any kind between your vessels and ours, we must make corresponding discriminations in our ports. If you make goods brought into your ports in american Vessels pay higher duties than you make the same goods pay when brought in British Vessels, we must establish the same differences in our ports.

Such was the language addressed by the U. S. to the Commercial World; and to which their Conduct has strictly conformed without an exception. — G. Britain accepted the proposition with regard to her European possessions and their productions, and accordingly British ships from those possessions have entered ports of the U. S., their tonnage & their cargoes being subject to

to the same duties as are paid by american vessels. But she refused to extend this principle to her colonies, and from this refusal resulted a series of counteracting measures on the part of the two nations, which became every day more & more injurious to the trade between the U. S. and the British islands, until at last the direct intercourse between them was altogether stopped, to the great detriment of both parties. This bad state of things prevailed for several years, until the intercourse was opened upon the favorite principle of the U. S., and the only principle on which, agreeably to our established and inflexible policy, the vessels of any nation whatever can be admitted in ports of the U. S. on the same terms as american vessels. Under the present arrangement, the intercourse between the U. S. and the British colonies is governed by the rule that in the ports of both nations the american & the British flag shall pay exactly the same duties of all kinds, whether of tonnage or on the cargo.

There could not be a more striking illustration of the advantages of a natural & direct trade, over one that is forced into indirect channels by artificial restraints, than that which is afforded by the trade between the U. S. & the British Islands. During a period of about five years, from 1825 to 1830, that trade was indirect, with a few unimportant exceptions. - - It was chiefly carried on through the Danish & Swedish islands, where cargoes from the U. S. had to be landed before they could be taken to the British Islands, and ~~where~~ Cargoes from those islands had to be landed before they could be carried to the U. S. In 1828, 1829 & 1830, the last three years of this period, the total annual amount of tonnage, going & coming between the U. S. and the British, Swedish, and Danish islands, was 130,000 tons. In 1832, when the direct trade to the British islands was well reëstablished, the total amount of tonnage going & coming between the same places was 250,000 tons; making an increase of 80,000 tons, & showing that the ~~inductions~~ introduced had already augmented

=vented to the same degree.

Such is the difference between the activity & advantages of a trade carried on through the direct channels which are natural to it, and its sluggishness when diverted from them by artificial restraints.—
I will close the remarks with which the occasion has led me to take the liberty of troubling E. E., by repeating the hope which I entertain, that the interesting commerce between the U. S. & this Island will never be so diverted; but, on the contrary, destined, at an early day, to exhibit on a magnificent scale the benefits to all parties which cannot fail to result from an intercourse founded on the liberal principles so cherished by the United States.

I have the honor to be, with the highest consideration, Your Excellency's obed.t H. Servt.

H. E. the Conde de Villamiana

&c &c

Intendente

&c &c &c.

Havana Consulate No. 137. Enclosure No. 53.

From the Intendente.
(Translation)

Havana, May 9. 1835.

My dear Sir,

The very urgent & hurried occupation afforded by the Peninsular mail has been the cause of my not having replied sooner to your favor of the 28th ult. I now do so, thanking you for the publications therein referred to; of which the french copy of the Treaty of Commerce between the United States of America and the Empire of Russia shall be duly returned.

Of the reflections which you have been pleased to offer me, I shall avail myself for the combinations called for by the relations of this island with the United States.

I enclose two copies of the Balanza Mercantil (Statement of Commerce & Navigation) of this place, which will convey to you an idea of its movement during the past year. The printing of the General Statement for the whole island will soon be completed, when I shall take care that you shall be supplied with it.

Meanwhile, I have the satisfaction to repeat

my=

myself

Your attentive & attached Serv.t

El Conde de Villanueva.

To the Consul General of the United States.

To the Intendente.

Consulate of the United States
Havana July 8. 1836.

I have postponed from day to day to acknowledge your Excellency's favor of the 4th ult., and return my thanks for the documents which accompanied it, owing to the desire which I felt to call your Excellency's attention to some facts in relation to the commerce between this Island and the United States which are to me a source of much anxiety, as they already operate very unfavorably upon a subject in every point of view so interesting, and are, I believe, destined, unless corrected, to exercise a still more unfavorable influence. — After all the delay occasioned by the pressure of my daily occupations and my having to procure certain documents containing the facts which I wished to present for Your Excellency's attention, my object can be but very imperfectly accomplished, owing to the want of time and materials for doing full justice to it.

As I have already had the honor to state to Your Excellency, the principles which the Government of the United States have, from its origin to the present time, maintained in its intercourse with other

other nations are all reduced to the one simple rule, reciprocity. Convinced that commerce flourishes to the best advantage for all parties, when under the fewest restrictions, it has been the steady aime of the United States, to make it as free as the waves of the ocean on which it is wafted. Their wish was, that no discriminations should exist; but that the ports of every nation should be as free to the ships of every other as to its own, and — — the duties on all commodities to — — — — moderate as not to interfere with their spontaneous flow in every direction in which they might be attracted by the wants and tastes — of the different — branches of the human family. Such was their wish, and the policy of their choice. But, aware of the obvious truth that it could not with safety be pursued by them except towards such nations as should themselves adopt it, they modified the commercial system of their choice by subjecting it to the rule of reciprocity; which obliged them, contrary to their own wishes, to establish many discriminations and impose many heavy duties which would never have existed, had other nations shown themselves

sensible

sensible at an earlier day of the beauty of those principles of free trade, to which more recently the civilized world, pretty generally, has begun to pay homage.

This rule [the firm maintenance of which may be considered as one of the most deeply settled points in the policy of the United States, and which, although circumstances may induce them to postpone its application, has never in any instance been surrendered or lost sight of by them,] must, under the present state of duties here upon products of the U. States, occasion great uneasiness to one who takes the interest which I do, in the trade between the two countries: for unless the inequality with which the tariff of this Island bears upon those products be soon corrected, the public voice in my country can scarcely fail to call for retaliatory duties upon the staples of this Island, as it has already done with regard to the duties on tonnage. The duties and valuations in force at this port exert a powerful effect in checking the consumption of the most important products of the United States that are attracted to this market, while they comparatively favor that of commo-

dities

commodities received from other foreign nations thus directly reversing the returns which the respective tariffs of the different countries would seem to deserve. In England and France, for instance, some of the products of the Island are totally prohibited, while others are burthened by enormous duties which put them beyond the reach of the great mass of consumers. In the U. States, this picture is reversed: some articles (coffee, honey and others) are admitted free; and the highest duty, that on sugar, is moderate in the extreme compared with the lowest duty on any Cuban product in those countries, and is moreover undergoing a gradual reduction, calculated to bring it down to 20 per cent in the year 1842. And yet, the duties and regulations on those articles which come from countries that will not allow their inhabitants to become consumers of Cuban products are such as to encourage their consumption here; while the bearing of the same tariff upon the productions of those who are the best customers of Cuba, is such as scarcely to permit their being sent here without certain loss; which is the best proof that the obviously strong disposition of the inhabitants

inhabitants of this Island to become consumers of those productions is constantly checked and stunted, instead of being permitted to expand by the regular growth which it is ever striving to exhibit, and — — would not only prove beneficial to both the producer and the consumer, but also yield an — annually increasing crop of golden fruit to the Royal Customs. — For example, in the price current of June 25, Flour is quoted at from $17 to $17.2, which, after deducting the duty of $9.4, leaves $7.4, which will scarcely pay the cost in the United States and expenses. In the same price current Rice, [the Arancel valuation of which is $6 per quintal of 101 lbs] is quoted at from $6 to $6.1 in this market; after paying a duty of nearly two dollars per quintal, upwards of 50 per % upon its cost — — in the United States. —

It was my intention to submit to Your Excellency some tabular statements, wherein this subject, in detail, would at a single glance appear — in a strong — — — — light; but want of time and the necessary materials for executing these in the manner I should wish obliges me to postpone it to some other opportunity, and to confine myself here to the —

expression

expression of my hope that these duties, which I consider as unfortunate, will not be allowed by H. C. M.'s counsels to remain at their present ruinous point, but will be reduced to a moderate one before they induce the people of the United States to resort in self defence to retaliatory duties, against the products of this Island, and in favor of those other countries producing the same commodities as this, the governments of which show themselves better disposed to allow them to become steady and growing markets for the product of the U. States. —

I have the honor to be, with the highest consideration, Your Excellency's

Obt. Servt.

A. P. Trist.

H. E. the Conde de Villanueva

&c &c

Intendente

&c &c &c.

To the Captain General.

Consulate of the United States of America

Havana August 12th 1838.

The peculiarity of the case will, I am persuaded, afford a sufficient apology in the eye of H. E. for my troubling you with it in a mode so unusual. (a)

The American Schooner North America from Baltimore laden with a cargo of brandy, wine, and rice, arrived off here this morning, under the command of a captain who has never visited the port, and is consequently unacquainted with its regulations, and having on board also a supercargo in the same category. Their orders were, to lay off the port, and send a boat in, with letters to various mercantile houses of the City, for the purpose of ascertaining if a sale of vessel and cargo could be immediately effected: in which event the Schooner was to enter port; otherwise, to proceed on her destination, which, from the size of the vessel (85 tons) and the character of her cargo, may be presumed to be one of the small ports of the now blockaded coast of Mexico. —

(63)

In pursuance of these instructions, and ignorant, as I have before stated, of the regulations of

(a) It was Sunday morning. But the emergency was of a nature to justify the freest use of the friendly disposition which I had ever experienced. The yellow-fever and hurricane season was at its height; and the addition of a lin=

of the port, the supercargo, having the schooner outside, entered the harbour this morning, between the hours of 6 and 7, in the schooner's boat, in which was embarked an empty water cask to be filled with fresh water. He passed the Morro, and then the Guardship, without being hailed; and landed at the Captain of the Port's, where he presented himself for the purpose of stating who he was, and the errand on which he came. In the absence of the interpreter, the Captain of the Port, supposing, no doubt, that the business related to some vessel in the harbor, but unable to understand what it was, signified as much to the supercargo, who withdrew, to seek one of the houses to whom he had letters.

He was conducted to that of Don José A. Salazar, who satisfied him that there was no possibility of selling the vessel and cargo without entering port, as his instructions required. Accordingly, having obtained his cask of water, he again proceeded to the Captain of the Port's, accompanied this time by one of the gentlemen of Mr Salazar's house as an interpreter, and applied for the pass which he had learnt to be requisite for leaving the harbor, and which he was now informed could be granted only in pursuance of an order under G. E's. own hand.

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single hour to the detention of the supercargo, whilst his vessel had to be lying near the ~~coast~~ waiting for him, might determine the chances against life, or property, or both. N.P.T.

Such is the Statement made to me, and which, having no reason whatever to doubt its correctness in every respect, I feel no hesitation in making the ground of a request to G.B. for the requisite order. (6.)

I have the honor to be, with the highest consideration,

Your Excellency's Obt. Servt.

N. P. Trist.

His Excellency Don Joaquin de Espeleta

&c

Captain General

&c &c &c

(6.) I subsequently learnt that I had been imposed upon. That the ~~ignor~~ inexperience of the laws & usages of Spanish ports, & even the ignorance of the language, for the sincerity of which I had been led to vouch, were altogether affected.

N.P.T.

No. 138. (Havana Consulate)

Washington, July 11. 1840.

Hon: John Forsyth
Secretary of State.

Sir,

I have the honor to transmit Appendix No. 2 to the Statement of the case of the Ship William Lugs, announced at the conclusion of my No. 106.

I am, Sir, very respectfully,
Your Ob't Serv't.

A. D. Hill.

Statement of the case of the ship William Engs.

[Appendix No. 2.]

Richard Robert Madden, one of Ferdinand Clark's confederates and witnesses against Consul Trist. ~~Hard~~ Worth, moral & intellectual, of this witness. His personal relations towards the Consul. Counter-testimony to that given by him.

In my letter No. 106, the last topic discussed is the case of the sailors of the William Engs; and my closing remarks upon that subject advert to the necessity for the present appendix. That necessity is created by an assault from a new member [or more properly speaking, a hitherto unsuspected one] of the confederacy of Clark, Bunstead & Co.; who since his departure from Havana, in the fall of 1834, for England, by way of the United States, has revealed himself through the press of our country. The character selected for signalizing his first appearance before the American Public will be seen to be that of a witness: a witness, bearing testimony, on the one hand to the brutal hardheartedness of the Consul towards the helpless victims of his neglect, injustice and tyranny, and

on the other hand & though incidentally and reluctantly & to witness' own christian vigilance, zeal and bounty towards the derelict sufferers. This Witness is, Richard Robert Madden Esquire, & alias Doctor Madden & recently filling in person, and still doing so by proxy, the post of "Her Britannic Majesty's Superintendent of Captured Africans" a sinecure created some years since, in consequence of the necessity, that three pre existing sinecurists at Havana, supported by taxation of the British people, under the pretext & known to every British subject at Havana to be false in regard to at least two of the three & that their services were requisite to carrying out the measures for the suppression of the Slave-trade, should have a fourth to assist in killing "the enemy".

The following extract from the New-Orleans "Free American" (a) known to be one of the most scurrilous papers in the Union, ex

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(a) The events will be seen to belong to February 1839 — the narrative is written September 6th — it is dispatched to New Orleans late in that month, just in time to be published immediately after.

exhibits Dr Madden in the double capacity of "very true" friend and correspondent of Ferdinand Clark Esquire, and witness in the duplex sense above stated.

THE TRUE AMERICAN.
BY JOHN GIBSON.
Official Journal of the 2d Municipality.
PUBLISHED
Daily, Tri-Weekly & Weekly.
NEW ORLEANS:
THURSDAY, OCTOBER 10, 1839.

MORE OF MR. CONSUL TRIST.

HAVANA, Sept. 30th, 1839.

Dear Sir:—

Enclosed you have a copy of Dr. R. Madden's letter to me of the 5th inst., which I hope will be published in your respectable newspaper. This gentleman rendered great and benevolent services in the affair of the crew of the American ship William Enges, that so much noise has been made about in consequence of the neglect of the American Consul, and it would be unjust to pass over acts of kindness in silence.

I am, dear sir,
Your, most truly,

"I am well informed that only one pair of shoes were furnished those poor sufferers by the American Consul, during the whole time they were in prison."

HAVANA, 5th Sept. 1839.

Dear Sir:—

In reply to your letter of this morning's date, respecting the steps taken by me to procure the liberation and otherwise assist the men of the "Wm Enges," I comply with your request, though unwilling to have to speak of any trifling efforts of mine in their behalf.

In the month of February last, I heard of 8 or 9 men, speaking our language, and, consequently, either English or Americans, being in the Cabanas, worked in chains with the other felons in that place. I went the following day to ascertain the truth of this account, accompanied by Mr. Norman. I found the men alluded to breaking stones in the *broiling sunshine* of noonday.—I think this party consisted of nine men: six of these told me they were Englishmen, one a Swede, and two were Americans. They all said, however, they had come here in American vessels as sailors. They were all remarkably well behaved, decent looking men.—They were in rags, and, with one or two exceptions, without shoes, the want of which they complained of greatly;—they all looked sickly and sorrowful enough, and the hardships they were undergoing, and the despair of ever getting out of the Cabanas, were sufficient to make them so. I then gave them what assistance I could afford, and promised not to lose sight of them.—They said they had nothing to expect from any other quarter; they had received some time before 3 or 4 pair of shoes from the American Consul, but they had been worn out long ago. They had been in the Cabanas 6 months, and were condemned to different terms of imprisonment, and hard labor of 2, 4 and 6 years. It was quite evident to me, as a medical man, from their looks and great exhaustion, not one of the party would reach the end of the 2, 4 and 6 years later, under the burning sun of Cuba; some of them, indeed, would not *live the summer out*. I determined to do all in my power to get them out, whether they were Englishmen or Americans; they were strangers, and they were in trouble, and so far as I could keep them so was to get them out of it; and this was quite claim enough for any person of common feeling, who might have seen them in the situation I did. At that time there were two British vessels of the line here. I immediately waited upon Capt. Henderson, of the Edinburgh, the senior captain, and begged of him to apply for their liberation. He promised me (after stating some difficulties) to do so. However, in a couple of days, I found Capt. Henderson had been making enquiries respecting these men of the William Enges, and had got a very bad account of them. I know not from whom. Moreover, he was informed *they were by no means so bad a state as I had represented*—that they had received nothing from the *American Consul*. It vexed me a good deal to find what trouble had been taken to prepossess Captain Henderson against these poor men. However, I did not leave him, till I prevailed on him to present a memorial to the Captain General in their behalf, that in so far of those who were Englishmen, for there would have been an impropriety in applying for the others formally. However, in his letter to the Captain General, I begged of him to state to the Captain General, that two men who were not English—the Swede and the American, Isaac Clark, though not named in the memorial, were of the same party of the William Enges, and that it would be a hardship if the others were liberated and they were left. I then made out a memorial for them and sent it to Capt. Henderson. The only apprehension he now had was on account of the bad character he got of these men. In fact, I feared his disinclination to taking them on board on this account, would prevent the memorial being sent. I therefore wrote to him on the 5th March in these terms:—"If you think the service will not "allow you to take these men on board your vessel, "should they be liberated, I will undertake to send them "to America; and, to remove any apprehension of the "Captain General as to their being at large before an "opportunity offers to send them, I will answer for "their being closely kept till a vessel is found to send "them away. Still, however, I greatly hope there may "be no impediment to their being allowed to enter the "service on their liberation. I am quite certain that an "application from you to the Captain General, would "be considered as a matter that his Excellency would "be pleased to oblige you in acceding to. These "poor people begged me hard to plead for them with "you, and how can I plead for them better than by put-"ting their memorial into your hand?"—The memorial was kindly sent, with a very strong letter, by Capt. Henderson to the Captain General, and the result was the abridgement of the term of confinement—one third of the time they were sentenced to was taken off. This

but not before Dr. Madden's departure from Havana.

At

Exhibits Dr. Madden in the double capacity of "very true" friend and correspondent of Ferdinand Clark Esquire, and witness in the duplex sense above stated.

THE TRUE AMERICAN.
BY JOHN GIBSON.
"FAITHFUL AND BOLD."
Official Journal of the 2d Municipality.
PUBLISHED
Daily, Tri-Weekly & Weekly.
NEW ORLEANS:
THURSDAY, OCTOBER 10, 1839.

MORE OF MR. CONSUL TRIST.

HAVANA, Sept. 28th, 1839.

Dear Sir:—

Enclosed you have a copy of Dr. R. R. Madden's letter to me of the 6th inst, which I hope will be published in your respectable newspaper. This gentleman rendered great and benevolent services in the affair of the crew of the American ship William Enge, that so much noise has been made about in consequence of the neglect of the American Consul, and it would be unjust to pass over acts of kindness in silence.

I am, dear sir,
Your, most truly,
——————.

"I am well informed that only one pair of shoes were furnished those poor sufferers by the American Consul, during the whole time they were in prison!

HAVANA, 6th Sept. 1839.

Dear Sir:—

In reply to your letter of this morning's date, respecting the steps taken by me to procure the liberation and otherwise assist the men of the "Wm Enges." I comply with your request, though unwilling to have to speak of any trifling efforts of mine in their behalf.

In the month of February last, I heard of 8 or 9 men, speaking our language, and, consequently, either English or Americans, being in the Cabanas, worked in chains with the other felons in that place. I went the following day to ascertain the truth of this account, accompanied by Mr. Norman. I found the men alluded to breaking stones *in the broiling sunabout noonday*.—I think this party consisted of nine men: six of these told me they were Englishmen, one a Swede, and two were Americans. They all said, however, they had come here in American vessels as sailors. They were all remarkably well behaved, decent looking men.—They were in rags, and, with one or two exceptions, without shoes, the want of which they complained of greatly;—they all looked sickly and sorrowful enough; and the hardships they were undergoing, and the despair of ever getting out of the Cabanas, were sufficient to make them so. I then gave them what assistance I could afford, and promised not to lose sight of them.—They said they had nothing to expect from any other quarter; they had received some time before 3 or 4 pair of shoes from the American Consul, but they had been worn out long ago. They had been in the Cabanas 6 months, and were condemned to different terms of imprisonment, and hard labor of 2, 4 and 6 years. It was quite evident to me, as a medical man, from their looks and evident exhaustion, not one of the party would reach the end of the 2, 4 and 6 years labor, under the burning sun of Cuba; *some of them, indeed, would not live the summer out.* I determined to do all in my power to get them out, whether they were Englishmen or Americans; they were strangers, and they were in trouble, and as far as I could learn, there was no one to get them out of it; and this was quite claim enough for any person of common feeling, who might have seen them in the situation I did. At that time there were two British vessels of the line here. I immediately waited upon Capt. Henderson, of the Edinburg, the senior captain, and begged of him to apply for their liberation.—He promised me (after stating some difficulties) to do so. However, in a couple of days, I found Capt. Henderson had been making enquiries respecting these men of the William Enge, and had got a very bad account of them. I know not from whom. Moreover, he was informed *they were by no means in so bad a state as I had represented—that they had received clothing from the American Consul.* It vexed me a good deal to find what trouble had been taken to prepossess Captain Henderson against these poor men. However, I did not leave him, till I prevailed on him to present a memorial to the Captain General in their behalf, that is to say of those who were Englishmen, for there would have been an impropriety in applying for the others formally. However, in his letter to the Captain General, I begged of him to state to the Captain General, that two men who were not English—the Swede and the American, Isaac Clark, though not named in the memorial, were of the same party of the William Enge, and that it would be a hardship if the others were liberated and they were left. I then made out a memorial for them and sent it to Capt. Henderson. The only apprehension he now had was on account of the bad character he got of these men. In fact, I feared his disinclination to taking them on board on this account, would prevent the memorial being sent. I therefore wrote to him on the 5th March in these terms:—"If you think the service will not "allow you to take these men on board your vessel, "should they be liberated, I will undertake to send them "to America; and, to remove any apprehension of the "Captain General, as to their being at large before an "opportunity offers to remove them, I will answer for "their being closely kept till a vessel is found to send "them away. Still, however, I greatly hope there may "be no impediment to their being allowed to enter the "service on their liberation. I am quite certain that an "application from you to the Captain General, would "be considered as a matter that his Excellency would "be pleased to oblige you in acceding to. These "poor people begged me hard to plead for them with "you, and how can I plead for them better than by put-"ting their memorial into your hands?"—The memorial was kindly sent, with a very strong letter, by Capt. Henderson to the Captain General, and the result was the abridgement of the term of confinement—one third of the time they were sentenced to was taken off. Thi

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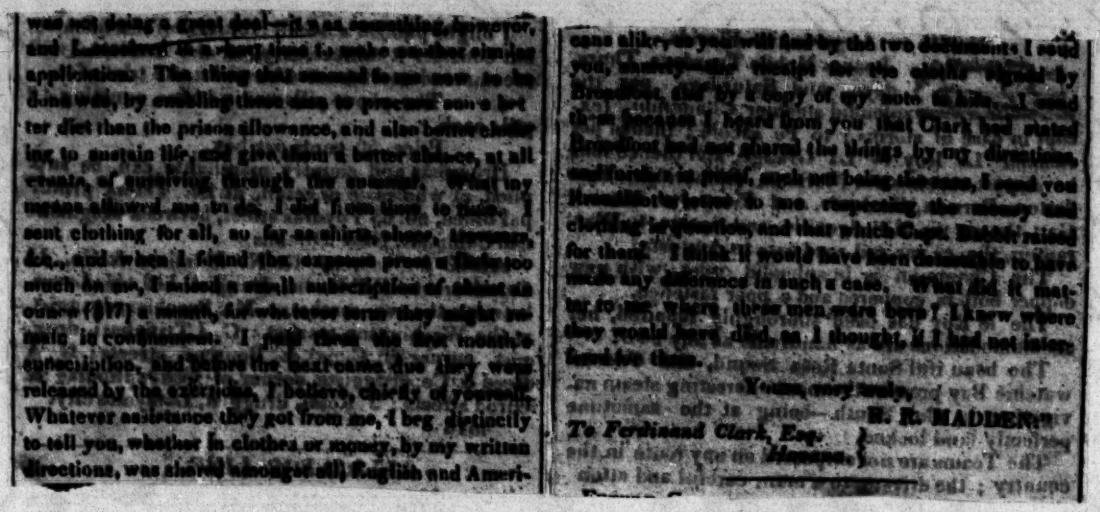


was not doing a great deal—it was something however, and I determined to make another similar application. The thing that seemed to me now to be done was, by enabling these men to procure some better diet than the prison allowance, and also better clothing, to sustain life, and give them a better chance, at all events, of surviving through the summer. With my means allowed me to do, I did [illegible] to them. I sent clothing for all, so far as shirts, shoes, trowsers, &c., and when I found the expense press a little too much on me, I raised a small subscription of about six or seven [illegible] a month, for whatever term they might remain in confinement. I paid down the first month's subscription, and before the next came due they were released by the authorities, I believe, chiefly at your request. Whatever assistance they got from me, I beg distinctly to tell you, whether in clothes or money, by my written directions, was shared amongst all, English and American alike, as you will find by the two documents I send you. Consequently, except for the article signed by Brandon, and by a copy of my note to him, I send them because I heard from you that Clark had stated Brandon had not shared the things by my directions, and further to state, such not being the case, I send you documents to prove to me respecting the money and clothing in question, and that which Capt. Brandon received for them. I think it would have been desirable to have made any difference in such a case. What did it matter to me where these men were born? I knew where they would have died, as I thought, if I had not interfered for them.

Yours, very truly,

R. R. MADDEN.

To Ferdinand Clark, Esq.
Havana.

Upon the points regarding the Consul, wherein this testimony of Dr. M. has a bearing, I shew, notwithstanding the lateness of the hour at which his mine was sprung upon me, I was enabled to obtain some pretty direct proof, through the instrumentality of some of the most respectable Officers of our Navy and merchant service, including Commodore Shubrick. Previously to entering upon it's consideration, however, it will according to the strictest precepts for the investigation of truth, be perfectly allowable to enquire into the character, moral and intellectual, of the witness thus volunteering in the crusade.

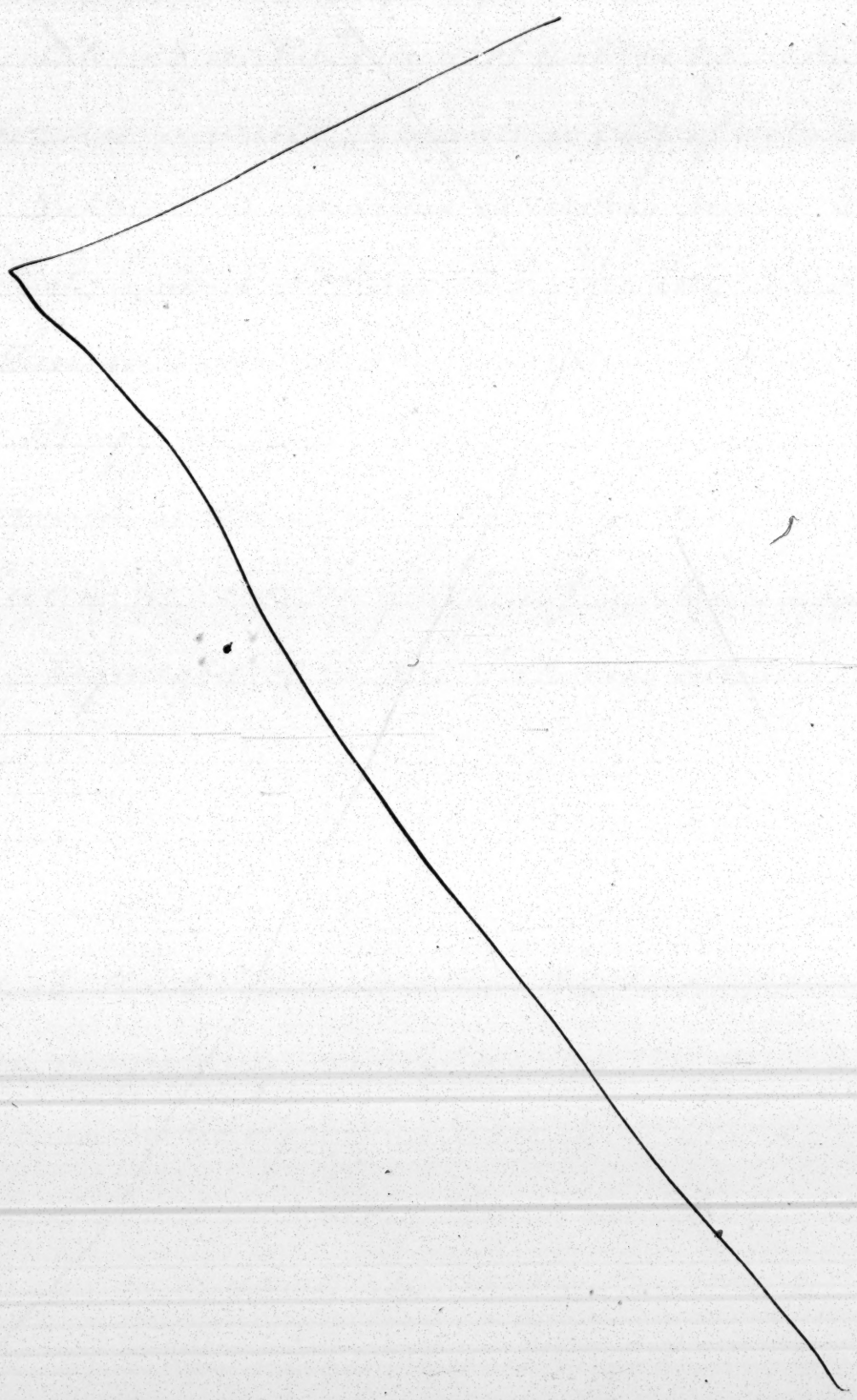
At a later period of the year, during Dr. Madden's visit to the city of New York his letter, with a complimentary preface, is republished, through whose solicitation or instrumentality, the Editors might tell, in the "Journal of Commerce" of November 21, under the following caption:

DR. MADDEN AND THE AMERICAN PRISONERS AT HAVANA.

Dr. R. R. Madden, an English gentlemen, who, we believe, is connected with the Mixed Commission at Havana, and who recently arrived here from that city, deserves the thanks of our countrymen for the active interest he took in behalf of several seamen of the American ship William Engs, now confined as criminals in the Cabanas prison at Havana. The annexed letter from Dr. Madden, we find in the New Orleans American:

against mine.

Who, then, is Dr. Madden? This is a ques=tion to which I have been furnished with more answers, than I shall here have room for. Some of them, however, I will give. The three first will be seen to proceed from the rival Oracles of the British world, in questions of Politics, Litera=ture, Science and Morals.



1. Answer

1. Answer of the London Quarterly Review in November 1829.

This number contains an elaborate article, occupying forty odd pages, upon "European Turkey," a subject to which the events of that day had imparted a peculiar interest. It consists in part of notices of four publications upon this interesting region, three of which, by British travellers, were very recent. (one of whom was French)
Of these four writers, three are spoken of, more or less strongly, in terms of respect and commendation. The fourth, is Dr. R. R. Madden. The degree wherein he is distinguished from his companions may be judged of by the following extracts:

[From the London Quarterly Review, November 1829]

In the state of tottering decay, towards which the Ottoman Empire has for some time past been progressing, and which, in the opinion of all men, is likely to terminate in a total dissolution, it is not surprising that a number of volumes treating on Turkish affairs should issue from the press; and among all that have fallen under our

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observation, we know not that we could pitch upon any one that contains a more clear, comprehensive, and, at the same time, concise description of the countries and people on which it treats, than the little unpretending duodecimo volume of Doctor Walsh. It is so perspicuously written that, even without the accompanying map, there would be no difficulty in following the author's footsteps; as little in comprehending his graphic descriptions; and we find no hesitation in acknowledging the justness of his observations, and in expressing our conviction of the correctness of his facts. A book like this is at all times valuable, and more particularly so at the present eventful period. His residence at Constantinople for several years as chaplain to the British embassy, and a journey from thence to England, afforded Dr. Walsh more favorable opportunities for collecting information with regard to the Turkish provinces, as well as some of the most important events which ever occurred in their capital, than fell to the lot of the other travellers, whose title-pages we have transcribed. These were merely casual visitors; with the exception, indeed, of the last on the list, who was resident in Constantinople at a most interesting period.

We do not feel that we could, with truth, pay a similar compliment to W. Madden's book. In it we at once perceive that the writer is ambi=tious to say smart things on trite occasions, and to convert every little incident into a perilous ad=venture; and these so frequently occur, that the reader, who expects a sober book of travels, will be apt to imagine that he has stumbled on a ro=mance, full

> of most disastrous chances,
> Of moving accidents by flood and field,
> Of hair-breadth 'scapes &c.

For all this, indeed, he prepares us in his pre=face:- 'It has been my fate,' says he, 'to have been 'taken for a spy in Syria - to have endangered 'my life in Candia, for refusing to administer 'poison - to have been shot at in Canea twice, 'and once on the Nile, by Turkish soldiers - to have 'been accused of changing the fragments of a 'broken statue into gold at Thebes - to have been 'charged with sorcery in Nubia, for showing an 'old woman her own frightful image in a pock=et mirror - and to have been a captive with Greek 'pirates, for wearing a long beard, when taken in 'a vessel bearing Turkish property.' If this gentle=man descends into a tomb of the Kings, the cau=

dle is sure to go out, and he is in danger of be-
ing lost in the subterranean chambers; if he ven-
tures into a pyramid, the Arabs roll stones a-
gainst the mouth of the passage, and he is in
danger of being suffocated: these are the sort
of hair-breadth 'scapes which other travellers,
some of them women and children even, have
run the same risk of encountering, without
danger or molestation. This gentleman has be-
sides the bad taste, to say nothing more, to
sneer at Herodotus; because his description of
the pyramids of Egypt, made four hundred
years before Christ, does not correspond with their
appearance eighteen hundred years after Christ.
He also charges Bruce with habitually sacrifi-
cing veracity to vanity. On this particular
point we would just hint to W. Maddew,
that vanity is not at all events the chief char-
acteristic of Bruce's work; moreover, that
vanity makes her appearance under a va-
riety of shapes; and that the full length portrait
of 'the author in his Syrian costume,' stuck
in front of the title-page of his own book, in
the act of feeling the pulse of something like a
lady's hand, is, perhaps, as strong an instance
of it, as any that could be pointed out in the

Abyssinian.

Abyssinian. On the present occasion, however, the painter has happily supplied a corrective well calculated to chasten personal conceit.

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The volumes of Captain Colville Frankland are just such as we should have been led to expect from the pen of a naval officer; containing, in the form to which seamen are most accustomed, namely, that of a journal, plain matters of fact, told in plain language. It is nothing more, he tells us himself, 'than a simple relation of what he himself saw, heard, and felt.'

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'It has been a long disputed question' says W. Madden, 'whether the Greeks or Turks are the best people; but the question should have been, which of them is the worst; for I would be inclined to say, from my own experience, that the Greeks, as a nation, are the least estimable people in the world, with the exception of the Turks, who are still less to be admired.' This is a slashing way of settling a question of this sort.

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The fastidious W. Madden himself admits that the Turk is charitable to the poor, attentive to the"

"sick, and kind to his domestics; but them, on the other hand, he describes him as perfidious to his friends, treacherous to his enemies, and thankless to his benefactors; the rulers are rapacious, the magistrates corrupt, and the people wretched: no less than eight cases of poisoning had fallen under his own observation; human life in Turkey is of the least value; and, of all roads to honour and ambition, murder is deemed the most secure. 'I sat,' says he, 'beside a Candiote Turk 'at dinner, who boasted of having killed eleven 'men in cold blood; and the society of this assassin was courted by the cousin of the reis effendi, at whose house I met him, because he 'was a man of courage.' W. Madden, we presume, (a) speaks Arabic or Turkish: we make this observation, as we find him conversing glibly in every page with Turks and Arabs, who are wholly unacquainted with any other language than their own.

'The Turks (he says) are generally considered to be honester than the Greeks, and in point of

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(a) The doubt here intimated by the Reviewer, is still more distinctly expressed a little further on. That it would have been converted into certainty had he deemed it worth while to call

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of fact they are, or at least appear so: they are certainly less mendaciens, and are too clumsy to practise chicanery to advantage. Their probity, however, depends not on any moral repugnance to deceit, but solely on the want of talent to deceive. I never found a Turk who kept his word when it was his interest to break it; but then I never knew a Greek who was not unnecessarily and habitually a liar. He is subtle in

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in the aid of any one acquainted with the rudiments of the Arabic tongue, is proved by the following extract from a recent publication in our country:

NOTE I.

I have no knowledge of Arabic; but one of my friends who has, assures me, that Dr. Madden, in his "Travels in the East," has been guilty of errors, which prove his entire ignorance of that language. "Dr. Madden," he observes, "uses the expressions '*Allah wakbar*,' (vol. i. p. 4, and vol. ii. p. 275,) '*Allah wachbar*,' (vol. ii. p. 19,) which he translates 'there was but one God,' 'there is only one God.' He no doubt means '*Allahou akbaron*,' or '*Allah akbar*,' 'God is the greatest;' a common Arabic exclamation. And again Dr. Madden says, — '*Mashalla*,' 'How wonderful is God,' (vol. i. p. 17) — '*Mashallah*,' 'God is great,' (vol. i. p. 243) — '*Mashalla*,' 'How very fine,' (vol. ii. p. 246,) no doubt meaning '*ma sha Allah*,' whatever God pleases.' And again, '*Allah kharim*,' (vol. i. p. 43, vol. i. p. 225,) 'God is great;' '*Allah karim*,' (vol. ii. p. 275,) 'God is most merciful;' which should be '*Allah Karim*,' 'God is generous.' Once more, '*Elb sukhne kiter*,' (vol. i. p. 293,) meant for '*kelb sukhun kathiran*,' and '*Mafish dowa*,' (vol. i. p. 120,) really '*ma fithsheyi dawa*.'

"His quotations," my friend adds, "are few, but all erroneous, and show him to be as great a quack in learning, as he is in medicine." "Will you believe it," he concludes, "this famous '*Hakkim*,' is the M. D. of a German university, which he never saw, and the thesis for which his degree was conferred, is his celebrated treatise on 'The Infirmities of Genius'?!!! What humbug."

'in spirit, insidious in discourse, plausible in his manner, and indefatigable in dishonesty; he is an accomplished scoundrel; and beside him, the Turk, with all the desire to defraud, is so gauche in knavery, that, to avoid detection, he is constrained to be honest.'

Madden, vol. 1. pp. 31. 32.

We can tell him, however, that every British officer, who has had to do with a Turk, will bear testimony that, without 'constraint,' the word of a Turk is inviolable. But W. Madden writes for effect.

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W. Madden, who seems to consider all mankind as rogues or fools, is pleased to designate the Armenian as a designing knave." 'In the language of the country,' he says, (but we have expressed our doubt of his knowledge of that language,) (b.) 'it requires one Copt, two Greeks, and three Jews to defraud an

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(b.) See note (a.)

an Armenian, he is as wily as the serpent, yet his cunning is but the supersubtle wisdom of the slave a slave who defeats rapacity by finesse, and violence by craft.' Captain Frankland found the Armenians in Turkey 'grave but respectful,' and their females, 'quiet and unobtrusive; and we prefer taking their character at his hands rather than those of Mr. Madden.

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11. Answer

II. Answer of the Edinburgh Review, in January 1830.

This number contains an elaborate article, or essay, occupying fifty pages, on "The Ottoman Empire," ~~a Turk~~ the same subject treated by the Edinburgh's rival, the London Quarterly, in the November preceding. It is founded, too, on a notice of the same four publications. Notwithstanding the great diversity of political principle and sentiment between the two rival Reviews, and the strong tendency to differ on all other points, also there is a striking coïncidence in their several estimates of the four travellers. Here, again, three of the number are highly spoken of; and Dr. Madden constitutes the exception. How far, the following extracts will show.

~~be judged of upon reference to~~

[From the Edinburgh Review, January 1830]

The volumes which head this article are an earnest of what the future has in store for us. Their merit is as various as the professions of their authors, with which, however, it has no connexion. Not one of them makes pretension to research in a single branch of science; to any kind of classical illustration; or to the slightest innovation upon the stale of geographical ignorance, which leaves five-sixths of a map of Asia Minor still a blank. Their object is confined to a description of the country, and of manners; heightened occasionally by such historical and political observation as is particularly in request at the present moment.

M. Madden's letters sparkle with an air of ad-venture which gets at last quite startling. They look like the materials that Ariosto might have collected for a rambling extravaganza, the rhymes of which, his bookseller's golden wand had converted into authentic prose. He has, unfortunately, not the art of gaining the confidence of his reader. Personal incidents rise up with the smartness of a Spanish comedy; and are often so well described, that, according to the ungrateful return which professed story-tellers meet with, the credit of the fact occasionally is endangered by the cleverness of the narration. The Faculty must settle what new light he has thrown upon the Plague and the Mummy. In the meanwhile, we hope that his medical instructions to travellers in these critical countries are more consistent than his advice to them upon their behaviour." 'The haughty carriage and uncompromising manners' of our countrymen, are, in the preface, made responsible for the 'notorious fact' of their being particularly unfortunate; whilst his own good humour softened to mercy the Syrian banditti into whose hands he so often fell; and placed him 'on terms of familiarity, if not of friendship, with Turks and Arabs,

'whose violence kept other Franks in awe.' A guide is rather mystifying who teaches at the be=ginning, that it is inconceivable how far ferocity and fanaticism may be subdued by good tem=per; and yet afterwards follows up the warning by a precisely opposite prescription: 'I had often 'to observe in my intercourse with this people, 'that gentleness and civility were either received 'as the homage of an inferior, or the simplicity of 'a fool; to be respected, I often found it necessary 'to be haughty even with the highest, and to be ar=rogant to avoid getting affronted.' This, too, in a country where a Doctor is almost a sacred per=son, as having the issues of life and death, of fer=tility and barrenness, in his hands.

It would be curious to know the qualifi=cations on which are founded a claim to dispose, in half a dozen words, of the comparative reputation of Arabian poets.(a) 'The great merit of Mahomet 'consisted, not in writing the Koran I for I have saw 'better poetry of his time in my possession, but in 'making so trifling a production the instrument of 'reclaiming his idolatrous countrymen.' Oriental and European tastes are confessedly dissimilar. But no quarter of the globe can differ concerning the presumption which thus saucily overrules na=

(a.) For the satisfaction of the curiosity here contemptuously ex=pressed, see note (a) to the London Quarterly on the same point.

-tive judgment, learned and unlearned, within a province so peculiarly removed from foreign jurisdiction. The English abstain from attempting to reverse the Gallican verdict in favour of Racine: the French no longer put Shakespeare below Pope. The Persians, as well as Arabs, are passionately fond of poetry. If their fancy is too partial to conceits, they know the merit of those higher strains, which, coming from the heart, mount into the head like wine. Distinguished writers among them have dedicated their lives to criticism; and they have voluminous annotations, as long even as our western commentators could desire, on one short Arab poem. The seven golden ones hung up in the Caaba were the most celebrated productions of contemporary Bards. The Mahomedan world has a singular test upon this particular subject. Admirers of Homer will think poetical excellence in a barbarous age no decisive proof of miraculous interposition. But no objection can be taken to the test as a question of degree between rival poems. The inspiration of the Koran is universally put on this single issue of internal evidence - that unassisted human genius could never attain to any thing as a composition so inimitably per-

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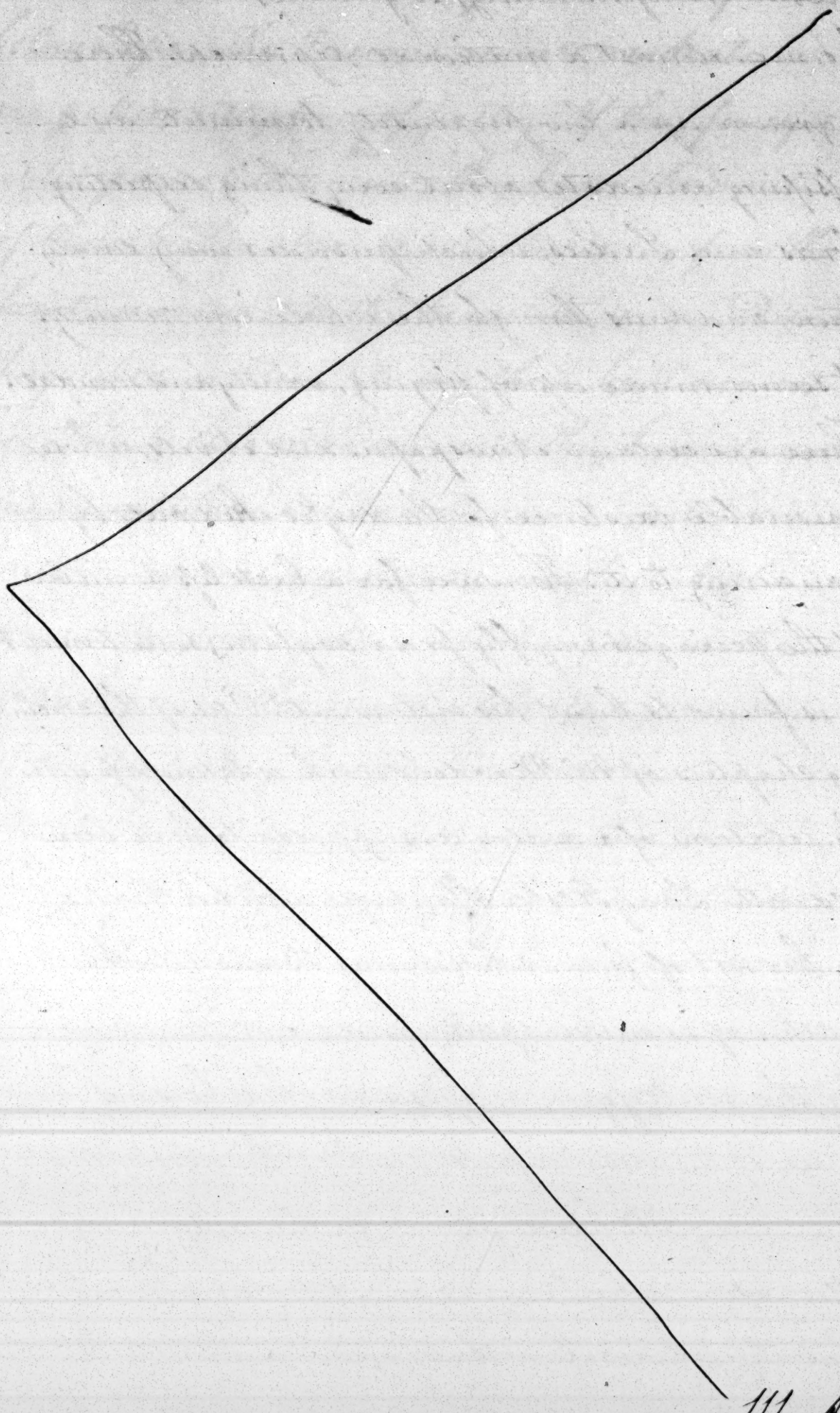
The mob of readers in all countries likes to be astonished; and writers, accordingly, are forthcoming to gratify this taste. The English have another passion, in itself much less excusable, and, unfortunately, so general, as to have become almost a national reproach. There is grown up a low propensity to minute and gossiping anecdotes about every thing respecting Lords and Ladies, which pervades every county town, and runs through the whole community. It seems made up of prying, vanity and scandal. There are certain Newspapers and Novels, whose miserable existence for the day is eked out by pandering to it. However far a luckless member of the peerage may fly for an asylum, some tormentor is found to hunt his victim out. One of the concluding chapters of W. Madden's work is taken up with the relation of a dialogue, supposed to have been held with Lady Hester Stanhope and her Visiter, in her sort of feudal hold near Bairout. An author of so much spirit would not thank us for the stultifying supposition, that he is not aware of the only impression which his description can convey. We hardly know, on the remaining alternative, whether it is most for his interest that the conversation should be considered to be

a dramatic scene that he has taken the liberty of imagining, or an unfortunate instance either of confidence or accident which has been abused.



III. Answer

III. Answer of the London Quarterly Review in October 1833.

Dr. Madden's neat appearance before his countrymen was as the author of a pseudo-philosophical catchpenny-compound of nonsense and scandal, entitled

> *The Infirmities of Genius, illustrated by referring the Anomalies of the Literary Character to the Habits and Constitutional Peculiarities of Men of Genius.* By R. R. Madden, Esq., Author of "Travels in Turkey." [redacted]. London. 1833.

Of this piece of "job-work for the trade", the Edinburgh Review, nauseated with books "whose miserable existence for the day is eked out by pandering to" the "low propensity to minute and gossipping anecdotes," "made up of prying, vanity & scandal",— took no other notice than to insert its title in the quarterly "list of new publications." The London Quarterly, however, as will be seen from the following extracts, deemed the cause of good morals more likely to be served by the castigation of such delinquency than by passing it over in silent contempt.

[From the London Quarterly Review, October 1833.]

Our readers will recollect that, on our examination of Mr. Madden's "Travels in Turkey," we saw reason to suspect that he was superficial, *inaccurate*, and presumptuous — that on his *assertions* a very qualified reliance should be placed, and on his *inferences* — none. This work justifies all those opinions. * * * In general learning he seems to be below what is called a smatterer, and the turn of his mind is evidently neither accurate in observation, precise in distinction, sagacious in analysis, nor comprehensive in synthetical combination. We suspect that he is little versed in medical, and still less in moral, philosophy; and though his pages are illustrated with great names and copious quotations, he gives us the impression of knowing of the men and the books he mentions little more than the name.

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We may here observe, also, that the title-page affords us a curious specimen of the author's scholarship: his motto is, "Qui ratione corporis non habent, sed cogunt mortalem immortali, terrestrem æthereæ equalem prestare industriam;' and for this sentence he refers us to PLUTARCH *de Sanitate tuenda*. We should lay no stress on the mere *press-errors* of this and almost every other classical quotation in the book, if they were not so *general* that it is impossible they can be merely accidental; but does Mr. Madden suppose that Plutarch is a *Latin* author? and if not, why does he give us this barbarous mutilation of Xylander's very indifferent translation of Plutarch's *Ὑγιεινα Παραγγελματα*? While we are on the subject of quotations, we may as well dispose at once of Mr. Madden's pretensions to classical learning, on which, from his frequent and ambitious display of it, we presume he sets great value, and of which, therefore, he would not forgive us if we did not take some little notice. Plutarch, we have seen, appears in the new character of a writer of very bad Latin. Sophocles, who has hitherto passed for a Greek tragedian, was it seems of the same school: —

"Sophocles has lauded the beatitude of ignorance. '*Nihil scire vita jucundissima.*'" — vol. i. p. 37.

The distribution of the following lines leads us to suppose, that Mr. Madden fancies that some of the poetical works of Tacitus have been preserved, though we doubt whether Mr. Madden himself could ascertain the metre: —

"In large *cities*, at least, literature occupies the ground which politics and scandal keep possession of in small ones; in the time of Tacitus the evil was common to the communities of both: —

'Vitium parvis magnisque civitatibus commune
Ignorantium et invidiam.'" — vol. i. p. 23.

Every schoolboy knows the passage in the introduction of the Life of Agricola, which, by misunderstanding and misprinting, our "learned Theban" has produced in this strange form. But if he exhibits Tacitus in verse, he balances the account by quoting "an excellent old author," who turns Horace into prose: —

"Like those poets who will throw you off a hundred verses, '*stantes in pede uno*,' as Horace has it" — (vol. i. p. 70) — rather, we should have said, as Horace has it *not*.

"Ovid and Horace," he says, "afford specimens of self-complacency, 'exegi monumentum æri perennius.' — 'Jamque opus exegi quod nec Jovis ira,'" &c. — vol. ii. p. 146.

So — referendo singula singulis — Ovid may be supposed to be the author of the former boast, and Horace of the latter. The following passage is of a higher flight both of English eloquence and classical Latinity. He denounces (alluding to the posthumous publication of some of Lord Byron's satirical *jeux d'esprit*,) "the deep, deliberate malignity of the literary jackal that steals away the provender of the mangled '*disjectæ membri humanitatis*' for the '*omni* vorantia *et homicida guld*' of the savage community of his own species." — vol. i. p. 187.

We say nothing of the new reading of *membri* for *membra*, or of *omni* for we suppose *omnia*, but we wish that Dr. Madden had named the author to whom we are indebted for the latter quotation, which enriches the Latin language with the two adjectives which we do not recollect to have met elsewhere, — *vorantius*, *vorantia*, *vorantium*, and *homicidus*, *homicida*, *homicidum*! — and, lest this choice scrap of erudition should be mistaken for the error of the printer, Mr. Madden carefully repeats the quotation "*omni vorantia gula*" in another place — vol. i. p. 271.

From such blunders as these, we are obliged to conclude, that although Mr. Madden quotes, or we should rather say misquotes, very ostentatiously, Sophocles, Plato, Xenophon, Hippocrates, Plautus, Horace, Ovid, Tacitus, Martial, St. Augustine, Ficinus, Plembius (*Plempius*), and the "*Sieur* Xilander," (*Xylander*) he knows nothing of them beyond their names (and not always their names), and some extracts which he has picked up in other writers, and which, without thoroughly understanding, he has transferred, for the most part in a maimed and corrupted shape, into his own pages.

The copyist will insert this as a foot note to p. 25.

(6.) *His Majesty's Commissioners to the American Consul.*

HAVANA, *17th October*, 1836.

SIR, — We have the honor to acquaint you with the following circumstances as being intimately connected with your consulate and the flag of your country, *which it will be our painful duty to report to His Majesty's Government.*

During the month of September there arrived at this port for sale, from the United States, four new schooners, we believe two from New York and two from Baltimore, all however built at the latter place, viz: the Anaconda, Viper, Emanuel, and Dolores, especially constructed and peculiarly fitted for carrying on the Slave Trade. The two former of these vessels, having received on board from the French house of Forcade & Co., a cargo, which by the Treaty of the 28th June, 1835, would have condemned as a Slaver any vessel bearing Spanish colors, cleared out and sailed under the American flag, the Anaconda on the 6th, and the Viper on the 10th inst. for the Cape de Verds, there to be transferred to a Portuguese subject, and to proceed with the flag of that nation to the coast of Africa upon a slaving enterprise. The protection which these schooners will receive from the American colors, both as regards their fitting and cargo, will effectually secure them against capture by His Majesty's cruisers until they arrive at the scene of their depredations. The Emanuel and Dolores have we believe left the port under the Spanish flag. But we have also to inform you that some short time since, the brig Martha of Portland, which arrived here from Matanzas, took on board, in this harbor, a cargo which would equally have confiscated as a Slaver, any Spanish vessel, and sailed direct for the coast of Africa, to deliver it at some of the numerous factories or dens of infamy established there in connexion with the Slave Traders of Havana.

The facilities thus afforded by the flag of the United States for carrying on this inhuman traffic could never, we feel convinced, have been contemplated by your enlightened government; however, we do not entertain the least doubt, but that a knowledge of the above circumstances will instantly produce measures calculated to remedy so deplorable and flagrant a profanation of the American colors, especially as during the period that these schooners were taking in their cargoes the harbor was visited by American men-of-war, which, had any convention existed between the two governments such as has been acceded to by almost every other maritime power, a seizure of the most important nature, as regards these iniquitous expeditions, must have been effected. We have, &c.

Can any thing be more insulting or foolish than this letter? It begins by what may almost be called a threat to report Mr. Trist and his countrymen to the English Government! to report citizens of the United States to the King of Great Britain! Men who know our extreme sensibility on the subject of national independence, natural and becoming to a young country, which has so recently achieved its liberty, and that this sensibility is more peculiarly called into action, when an invasion of that national independence is even hinted at by subjects of that power from whose dominion we have emancipated ourselves, will not wonder at Mr. Trist's excitement on reading this letter, more especially as the Commissioners go on to launch out, into an absurd charge against American vessels for carrying what an English vessel, in spite of the United States, might carry with impunity, and exhaust their superlatives in lamenting the *iniquitous expeditions*, and the *deplorable* and *flagrant profanation* of the American colors in the transport of merchandize, chiefly manufactured in England, to the *Dens of Infamy* on the coast of Africa. To conclude their epistle, these gentlemen at last intimate the desirableness of "a convention existing between America and Great Britain, such as has been acceded to by almost every other maritime power;" as if Dr. Madden and Mr. Trist were likely to bring about an arrangement which Sir Stratford Canning and Mr. Adams, Mr. Addison and Mr. Clay, Sir Charles Vaughan and Mr. McLane and Mr. Forsyth and other distinguished negotiators had attempted in vain to conclude.

Now for Mr. Trist's answer. It was not rude, nor vulgar, nor insulting, nor indignant as Dr. Madden asserts. It was what a gentleman, such as Mr. Trist, might be expected to write. But it shall speak for itself. Here it is: —

Mr. Trist to H. M. Commissioners.

CONSULATE OF THE UNITED STATES,
HAVANA, 29TH NOVEMBER, 1836.

GENTLEMEN, — On my return to this city a few days since from the United States, I had the honor to receive your letter of the 17th ult., which would have been sooner acknowledged had not matters of more immediate urgency prevented my bestowing upon it the full consideration, which, at a glance the importance of its bearings was seen to require.

It has probably escaped your attention, that overtures, previously made, for a convention of the character referred to in the closing paragraph of your letter, were more recently repeated by H. B. M. Minister at Washington, and there declined by the Government of the United States in a manner evincing

IV. Such are the answers to the question, Who is Dr. Madden? afforded years ago by the two leading periodicals of the British Empire, and English-speaking world. I will now come down to a later period.

On my return to Havana from a visit to the United States, in November 1836, I found in my consulate a communication (b.) addressed to me by the British Judge Commissioner and Arbitrator, & the latter of which posts was at the moment filled by Dr. Madden as locum tenens. Jy resident at that place as members of a mixed court, established under special treaty-stipulations between their government and that of Spain, the sole functions of which, strictly defined by the treaty, consisted in adjudicating upon vessels of those two nations, captured on the ground of being engaged in the slave-trade.

In utter contempt of the first principles of the law and the rights of nations, as applicable to the simple relation thus established between themselves and the Spanish Authorities, these British Agents, taking cowardly advantage of the dread inspired by the power of their government, had for years been abusing the official residence thus granted to them for a special and

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(b) – Insert as a foot note, the printed letter

solemnly covenanted purpose, not only by an ost=
=tentatious parade of insulting espionage over the
Port of Havana, which common decency requir=
=ed them to pursue in private, if they practised
it at all; but by offering to the authorities, whom
they had no right to address at all, the most
wanton indignities, in the shape of official com=
=munications, indirectly, but flagrantly, taking
them to task for connivance at infractions by
Spanish subjects of the prohibition against the
Slave-trade. Supposing them to exist, and to
be ever so flagrant, such infractions could
not be thus taken notice of by these British
residents without utter disregard of the letter
and the spirit of the treaty which alone gave
them their official existence, nor without
openly trampling under foot the vital princi=
=ples of National Independence. This was too
obvious not to be seen and felt by every man.
It was seen and felt by all: foreigners no less
than Spaniards. The consequence, too, was ob=
=vious to every eye. It was manifest, that such
a course of wanton insult could not but beget a
spirit of indignant resistance, which would ope=
=rate, however unintentionally and unconsciously,
as an auxiliary to the very traffic, the plan for

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the suppression of which furnished the pre-
-text for the existence of the fat government-sine-
-cures which these men enjoyed, and which
every close spectator saw to be unnecessary to
the object. That their arrogant ~~intermeddling~~ meddling
was attended with such an effect, is attested by
a truth unguardedly disclosed in their own
communications since published to their govern-
-ment. There was not a British or other foreign mer-
-chant at Havana who did not know the fact: who
did not see that these ostentatious parades of zeal op-
-erated most unfavorably to the cause, devotion to
which afforded the pretext for making them; and
that the only possible motive to which they could be
ascribed was, the desire to promote their own
individual interests by furnishing to their imme-
-diate office-holding employers at home, proofs of
devotion to the cause and manifestations of
active employment, calculated to satisfy those
who had it honestly at heart, but which could
impose on them only because they were too dis-
-tant to see into the game.

Such were the circumstances under
which this new move was made; having mani-
-festly for its object nothing else than to enlarge
their stock of theatrical machinery, and add to

their store of themes for ad captandum ver=
=biage-zeal.

This ineffably impudent pretension to extend their game of ostentatious espionage (&c) over the commerce and navigation of my country, who, not only was not a party to the treaty that afforded the pretext [or the opportu=nity rather, for pretext there was none,] for the indecent bullying practised towards the helpless Spanish Authorities, but who had, through a long series of years, repeatedly refused to become a party, and had recently de=clined in the most peremptory manner to listen to any further proposal on the sub=ject, was met by the following letter:

Mr.

(&c) Its utter disingenuousness and effrontery were the more flagrant from the fact, since disclosed by the publication of their own communications, that the "circumstances" where=of they thus had "the honor to acquaint me," had been de=rived by them from my own Consulate, where their Secretary was a daily visitor to my vice-consul, and where any thing and every thing going on, that he felt any curiosity about, was always freely made known to him, until his superiors, by committing this act of silly impertinence, created a necessity for my establishing

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Mr. Trist to H. M. Commissioners.

CONSULATE OF THE UNITED STATES,
HAVANA, 29TH NOVEMBER, 1836.

GENTLEMEN, — On my return to this city a few days since from the United States, I had the honor to receive your letter of the 17th ult., which would have been sooner acknowledged had not matters of more immediate urgency prevented my bestowing upon it the full consideration, which, at a glance the importance of its bearings was seen to require.

It has probably escaped your attention, that overtures, previously made, for a convention of the character referred to in the closing paragraph of your letter, were more recently repeated by H. B. M. Minister at Washington, and there declined by the Government of the United States in a manner evincing the most decided disinclination to become a party to even any discussion whatever of the subject.

Had this been adverted to, you would have been sensible that, besides the general objection to my holding with any agent of a foreign government any correspondence not warranted by the very limited official character with which I am invested, the occurrence to which I refer has rendered it particularly incumbent on me, to decline receiving any communication of the nature of that which I now beg leave to return. I have, &c.

Thus terminated our official relation; or rather, thus resulted the attempt of Dr. Madden and his colleague to establish one between us. With regard

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establishing the rule, that to them and their Secretary, although to no one else, the movements of American vessels, whether to Africa or elsewhere, should be a forbidden topic.

to those which personally grew up during his residence of three years, that terminated in his visit to our country last October, the reader will have been prepared by the manifestations of the intellectual and moral nature of the man selected by his countrymen, the Edinburgh and the Quarterly Reviewers, to peruse without much astonishment the following sketch.

Dr. Madden's arrival at Havana was attended with the rumour, that his departure from Jamaica [whither he had been sent out from England in the capacity of "stipendiary Magistrate"] had been rendered necessary by the difficulties in which his course had involved him, and which had thus far resulted in his being cowhided or horsewhipped. This, as all who knew me would have been ready to predict, produced in me a strong predisposition to treat him with kind consideration. My experience of the world had not then [nor has it now] overcome my propensity to confidence, or broken my habit of looking upon zeal as, at least, prima facie evidence of that directness and honesty of purpose ~~of~~ which, as 'tis the utmost that a fallible mortal can give, is the highest price that any

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one has a right to demand of another as the condi-
tion to his respectful and friendly regard.
In addition to the advantage secured to him by
my habitual tone of thought and of feeling on
the subject, was the further advantage resulting
from the sentiment of sympathy towards a
sufferer from unmerited contumely; as I
deemed it highly probable that that inflicted
upon him had been. The very nature of the
post of "stipendiary magisthate," a barrier
between the "apprentices" and the masters, of
whom they had but the day before been the
slaves, created the strongest presumption
that if he had been subjected to such insult
it had been for a cause that should commend
him to the respect of all honest men.

Such were my feelings towards
him & nowise affected by the circumstance
of his having, as the recently arrived sub-
-ordinate adjunct, put his name to the com-
-munication above spoken of, when we
chanced to meet at the dinner table of
Captain Jones, of the British frigate "Vestal"
then lying at Havana. In the course of table
-talk the politics of the day having come up,
a British Naval Officer, in a spirit of good

humoured banter, made a remark to the effect that he had a plan for settling the Irish difficulties, to wit: to make an exchange with France, of Ireland against Algiers. In the same spirit, the ball was kept up; when, perceiving that Dr. Madden [who is an Irishman and a Catholic] did not take it in that spirit, I endeavoured to change its drift by a remark which I thought calculated to soothe his evidently irritated feelings. I remarked, that I had a substitute to offer for the original proposition, that I would put in an American claim to Ireland, or at least to Irishmen: let the Abolition party send us enough of the Irish peasantry and take away our negroes. Thus would England be relieved from troublesome subjects, and America would gain good citizens in the place of a population which presented the only serious question in regard to the permanence of her prosperity. This topic elicited a conversation, in the course of which I expressed my perfect conviction in regard to the absolute impossibility of a social amalgamation

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amalgamation of the two races, and the ut-
-ter illusoriness and mischievousness of all
of all projects which were not founded on
that truth as a starting point. In addres
-ing myself to Dr. Madden's feelings for
his native land, I had been unmindful of
what I ought not to have overlooked:
that an Irishman and a Catholic, who
could reconcile it to his conscience to ex=
-pend his ~~philanthropy~~ philanthropy in the
sloth of a West India sinecure, ministered
to by taxes wrung from his "Saus-potatoe"
countrymen, could not but be, in the most
emphatic sense, one of the "Amis des noirs."

My oversight was quickly brought
home to me. The gleam of fanaticism dart
-ing from his eye, he interrupted me with
the question, "Do you acknowledge them to
be fit company for God Almighty in Heaven,
and not fit associates for you on earth? (d)
Taken all aback by such an interrogatory,
I replied good humouredly that he had risen
into a region where I could not pretend to
follow him, and dropped the subject.

(d) The improbability of such an outbreak, at a

This, and other developments of character which occurred at the same table, satisfied me that Dr. Madden was not a person for me to associate with. It is not in my nature to make proclamation of such an opinion. I kept it to myself, but I acted upon it. My purpose of establishing a visiting acquaintance with him was changed into an opposite determination; and our intercourse was limited to a bow in the street or the ordinary salutation when we chanced to meet elsewhere, which did not

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dinner table especially, is so extreme, that I should have been deterred from narrating it, except to those to whom I am personally known, had not Dr. Madden since afforded the means of securing my veracity on this point from all question. The view of the subject here expressed by him would seem to be among his "fixed ideas."

During his visit to Boston in November 1839, a thing which he was known to have composed, at Havana, and called a "Poem," was published under the signature, "Richard Robert Madden," in the Boston Courier, with an editorial preface and a libellous dedication & containing not one syllable of truth & from the author. The preface and dedication

often happen.

Such was our external relation towards each other. I had seen enough of his character to know that, internally, I could not but be to him an object of the most cherished "odium theologicum". To me, he was generally ~~an object~~ one of absolute indifference; though this passive state occasionally changed into a feeling of contempt or commiseration, according as the exciting cause chanced to be a display of the one or the other of the two chief ingredients of his character: a self-seeking by=

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are given below. The eleventh stanza of the Poem ends with the following lines:

"Made in the image of their God, shall they
"Not rise again" like you 'at the last day'?"

BOSTON COURIER.

THURSDAY MORNING, NOV. 7, 1839.

J. T. Buckingham, Editor.

The following Poem has been sent by a friend for publication. The author, it is generally known, is a member of the British Commission at Havana, and was recently here on a visit. It is not published without his authority. Though written with peculiar application to a different community, it may do good in the United States; and, as Shakspeare's Grave-digger says of the fellow, good in Council Trist, "because he does it!"

TO N. P. TRIST, ESQ.

CONSUL GENERAL OF THE UNITED STATES IN CUBA,

THIS POEM

ILLUSTRATIVE OF THE

PROMINENT EXCELLENCES OF THE SLAVE TRADE CHARACTER,

which Mr. Tyler has recently come forward to defend from the various slanders heaped upon it in Great Britain and America, by the abettors of that execrable, in an official communication in reply to one addressed to the British Commissioners for the suppression of the trade,

IS DEDICATED,

WITH FEELINGS OF SINCERE CONSIDERATION,

BY THE AUTHOR.

hypocrisy, intent upon animal comforts in the shape of salaries and pensions, eked out by pub=lishers pay for catch-penny job-work; or a reck=less fanaticism, under whose occasional gleams he would sweep the earth bare rather than list=en to temporizing expedients, or give heed to aught except the one great object to which his salary-receiving, pension-expecting philanthropy was wedded.

In this way time rolled on until the fall of 1839, when he departed from Havana for the United States, on leave of absence, leaving in possession of his slave-trade-suppression sinecure, a British merchant whose daily occupation consists in vending that slave-trade merchandise, whereof W. Fowell Buxton has recently published the sta=tistics, showing the proportions in which it is manufactured in different parts of G. Britain, to the amount of upwards of two millions of dollars: a display of consistency not unworthy of the man who, but a few months after he had conceived deadly hatred against another for no other reason than that he believed the white race invincibly averse to amalgamation, be=ing in want of a wet nurse in his family, recoiled with horror and boiled with rage at

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the suggestion to adopt the practice of the country where his child was born, by having it suckled by a black woman!

In October he sailed for Boston. A few weeks elapsed, when lo, and behold! his mud-pointed Parthian shaft. The New Orleans "True American" comes to Havana, and is brought to me by a friend. In me it occasioned no surprise, it accorded with my conception of the writer's nature. But I was yet to learn the full depth of it's base-ness. Not until then did I know that, down to the moment of his departure, he had expressed the high-est respect for my character, and great regret that circumstances had prevented him from associat-ing with me! This had been to my family phy-sician and his own: a man of honorable princi-ple and sentiment, who, though he had occasion to rebuke Madden for the fanaticism in which he indulged on a particular topic, (i.e.) believed him sincere, and therefore accorded him his respect. Of this gentleman, who is connected with

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[i.e.] He had once said in his presence, that if the slave-holding States of America should persist in holding out against the demands of the Abolitionists, he believed that the British Government would ex-

me by marriage, and attached to me by yet
older ties of friendship, he had on the eve of
his departure asked letters of introduction
to our mutual friends in Boston; and
with those letters in his pocket, to give weight
to whatever might appear under his name,
he departed, leaving in the hands of his
secret confederate Ferdinand Clark, the
calumny which had (at the very period
when he first took occasion to express esteem
for my character) been concocted through
the joint efficacy of their conjugial loves.

The sequel is worthy of this beginning.
Some months after, Dr. F, another British
physician resident at Havana, having
been accidentally called, in a case of emergen
=cy, to the house of Ferdinand Clark, this person
=age availed himself of the opportunity to in
=dulge with a new listener in conversation
on a subject which can never pall on his
palate. He enquired of the doctor his opin
=ion of the efficacy of the war then raging
against the Louisa through the American

=cite a servile war among them, and that it would
be right in so doing!

press: and in the ardor inspired by this theme, the vulgar stupidity of his malice so far got the upper hand of it's low cunning as to betray him into ~~gossipping~~ a gossipping disclosure of the history of Madden's ~~xxxxxxxx~~ adhesion to the confederacy. It was as follows:

Early in 1839, [about a month before the very time when he had taken occasion gratuitously to express to my family physician and friend, the highest respect for my character, and regret that circumstances had prevented our becoming well acquainted,] Madden had called upon Clark, and said that he understood him to be an enemy of the Consuls', and wished to obtain from him all that he could impart to the Consuls disadvantage: "for," continued Madden, "he has treated me in a manner that no man shall, with impunity. I arrived here, a stranger, with my family; and he took no sort of notice of me. I moved out to the Cerro [a suburb of Havana,] and took a house which he had just left, next door but one to that in which he was then living; and, even there, he nor his family showed me the civility ~~of a call~~ even of a call. Now, I intend to make a visit to the United States this year,

and, if God spares my life, I will get him removed from office. I will go to Washington for that express purpose.

He has written from the states, I pursued Clark; that he had gone to Washington, and could get no satisfaction there; and finding that the only way of accomplishing his purpose against Trist was, to excite the public mind against him, he had written and published the Letter addressed to Dr. Channing.

Such, in substance, was the gossip with which Clark entertained Dr. F, by whom, within a day or two after, it was repeated to the friend who communicated it to me. That he should have so exposed himself, will appear incredible, except to those acquainted with the fact that he is not less noted for ignorant stupidity in the reckless indulgence of malice, his malice than for the low cunning in matters of trade which have made his name an old by-word. I should not have ventured to relate so improbable a fact, but for the contradiction which that improbability receives from the whole tenor of his course, as the soul of the long standing conspiracy against me. This is proved by the documents now in

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the possession of Government, to have been no
less remarkable for blind stupidity than for
wanton malice and low villany.

The Letter to Dr. Channing here
referred to, is a thirty-two page ~~diatribe~~ out=
=pouring of rage, under the pretext, chiefly, of
my ~~connivance~~ alleged connivance at,
and participation in, the slave trade. It will
be found a worthy product of the brain and
heart dissected ten years before by the Edinburgh
and the London Quarterly. Its nonsense and
malignity has been in part exposed by the pen
of a friend, who knew that I was too engrossed
by important subjects to afford to waste a mo
=ment upon Dr. Madden. The estimate of the
moral qualities, of which it affords proof, must
however, remain an utterly inadequate one unless
=less the calumnies with which it is fraught
in regard to my position respecting the slave
=trade be closely collated with the truth: as known
to Dr. Madden, together with every other foreign
resident at Havana; as established, beyond the
possibility of doubt in any mind, by the docu
=ments which have already in part been laid
before Government, and will be completed so
soon as the more pressing of the two heads of

impeachment against me - that regarding the treatment of ship-masters and sailors - shall have been disposed of.

Thus much, in reply to the question Who is Dr. Madden? The character of this volunteer witness will now be sufficiently understood; both in itself generally, and in the peculiar development of it's affinities produced by it's contact with that of the man against whom his testimony is volunteered. The reader's mind will now be prepared to estimate the value of the direct counter-testimony which I have to offer upon the precise point in question. It will be seen to have been obtained through the instrumentality, first of Commander Wm. A. Spencer, James T. Gerry first Lieut: and Daniel Egbert, Surgeon of the U. S. ship "Warren," united with captains Charles W. Folger of Schooner "Hope and Susan" of Nantucket, and Morgan S. Gordon of Barque "Ellen" of New York; and subsequently of Commodore Shubrick, commanding the U. S. Naval forces in the West Indies and Lieutenants A. Sinclair, and Charles Steedman of the flagship, the

Frigate

Frigate "Macedonian."

On recurring to Dr. Madden's letter to Clark, it will be seen that the party of sailor-prisoners discovered by him at the Cabaña, "consisted of nine men," who "were condemned to different terms of imprisonment and hard labour, of two, four and six years." The last mentioned were the three sailors of the American Schooner "Henry Clay," who had been arrested in a grog shop, in consequence of their having sheathe-knives about their persons, prosecuted, convicted and sentenced under an imperative law, alto=gether beyond the discretion of the Judiciary, attaching to that offence the penalty of six years imprisonment. (f.) If a case calculated

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(f.) The vigilant enforcement of this law against wear=ing a knife which could be used to stab, was the chief means whereby General Tacon succeeded in establish=ing the most perfect security of person and of purse in the streets of Havana, at all hours of the night as well as day, in place of the daily and nightly robberies and assassinations which he found prevalent there. The penalty was beyond the control of even the Captain General, except to remit one third of the term of imprisonment; which he at once proffered

to awaken sympathy could possibly be, the case of these men was of that nature. Without any evil intent, or even knowledge of the prohibition, they had come under an inexorable law, from a conviction under which nothing could shield them, and from the penalty of which nothing short of the Royal Prerogative could relieve them; whilst at the same time its rigid

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to do. A full pardon was granted by a Royal Order that reached Havana in February 1840; when the men were immediately released. They came to the Consulate to express their thankfulness for the attention which their case and condition had received at my hands.

Dr. Madden, speaking "as a medical man," which pretension all medical men who have ever had the slightest opportunity to judge, know to be a no less arrant imposture than every other that he advances, says. "It was quite evident to me as a medical man, from their looks and evident exhaustion, not one of the party would reach the end of the two, four and six year's labour, under the burning sun of Cuba; some of them, indeed, would not live the winter out." These men of the "Henry Clay," the only portion of the party described by Dr. Madden who continued in confinement, lived, not only "the winter out," but,

without

enforcement was the one indispensable condi-
tion to the existence of any thing like security
of life in that community.

Such was the case of these men.
And yet, as their testimony shows, so soon as
Madden and Clark had expended their
philanthropy in securing materials for their
sympathy-exciting imposture upon the Public
in the United States, these poor sailors were
left to shift for themselves. The crew of the

[without ever having seen or heard of Dr. M. since the dis-
charge of the William Engs men, early in May] the
summer and fall too, of a remarkably sickly year, and
then a second winter; and after all, came out pictures of
health: healthier far, than when they were first ar-
rested. On this point, see the testimony of our Navy
Officers and merchant captains.

An idea of the strictness with which
the law to which these men made themselves amenable
was enforced is afforded by the fact, that, in the official
announcement, in the Diario de la Habana of Sun-
day December 2. 1838, of the penal sentences pronounced
in the preceding month of November, embracing those pass-
ed upon the men of the "Henry Clay," there are no fewer
than eleven other cases, identical with theirs, of Spanish
subjects, to wit seven white and four colored men, sentenced

"William Engs" whose case chanced to afford a pretext for clamor against the Consul, were released on the 13th of May 1839; leaving behind the men of the "Henry Clay," whose case afforded no such pretext. Maddenremained in Havana until the October following; and yet, the crew of the "William Engs" once out, the men of the "Henry Clay" never heard more of Madden or Clark!

"As the Henry Clay's men were confined and worked in company with the men of the William Engs, Dr. Madden had not the impudence to refuse them a part of the relief which he was commissioned to afford.

But, will it be believed? no sooner were those of the William Engs discharged from prison, than the Henry Clay's men were utterly deserted by the Doctor and his co-philanthopists! For them, poor fellows, there was no more Madden, no more Clark, no more visiting, no more wining, no more commiseration, no more old clothes. What did it matter to him where these men were born? He knew where they would die, and yet he forsook them without compunction! They were innocent, but the purposes for which they had become *protegés* of this Havana Howard had been fully served: the materials were secured for his tale of piteous abandonment and bounteous philanthropy; the "sickly and sorrowful" prisoners had been made all the use of against Mr. Trist that they could be: so let those of the *protegés* whose "term of imprisonment and hard labor" was the longest, who were in for "six years," perish! *They* had belonged, not to the ship William Engs, but to the schooner Henry Clay; *their* case afforded no pretext for representing the Consul as the author of their sufferings; so let the dogs die!

Thus has written a friend of mine ~~from~~ at Havana. He might have added what their testimony also shows, that Madden's piteous tale of the sufferings of this party was no less false than his philanthropy was hollow. Let the reality, as attested by themselves, by the officers of our navy, and merchant captains of that order who do no less honour to our country

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to the same six years of imprisonment.

than the Navy does - be compared with the picture painted by Richard Robert Madden to the order of Ferdinand Clark; and it becomes manifest, that this painter can be no other than the very same Madden, of whom, nine years before, the Edinburgh Review said, and conclusively justified the saying: "He has unfortunately, not the art of gaining the confidence of his reader. Personal incidents rise up with all the smartness of a Spanish comedy: and are often so well de=scribed, that, according to the ungrateful re=turn which professed story-tellers meet with, the credit of the fact occasionally is endanger=ed by the cleverness of the narration. × ×
× ×. One of the concluding chapters of W. Madden's work is taken up with the rela=tion of a dialogue supposed to be held with Lady Hester Stanhope. × × × We hardly know, on the remaining alternative, whether it is most for his interest that the conversation should be considered to be a dramatic scene that he has taken the liberty of imagining or an unfortunate in=stance either of confidence or accident which has been abused."

Taking leave of Dr. Madden, I will

now

now introduce the testimony referred to, which will be seen to consist of eight ~~xxxx~~ documents, towit:

No. 1. Letter from N. P. Trist, to Capt. George C. Boardman, Ship "Huron" of Portsmouth. Nov.r 2. 1839.

No. 2. Letter from N. P. Trist, to Commander Wm. A. Spencer, U. S. Ship "Warren". Nov.r 28. 1839.

No. 3. Letter from Wm. A. Spencer, to N. P. Trist. Nov.r 30th 1839.

No. 4. Letter from Charles M. Folger, master of Sch.r "Hope & Susan" of Nantucket, to N. P. Trist. Dec.r 3. 1839.

No. 5. Letter from Morgan S. Gordon, master of Barque "Ellen" of New York, to N. P. Trist. March 10. 1840.

No. 6. Letter from N. P. Trist, to Commodore Wm. Branford Shubrick, commanding U. S. Naval forces on the West India Station. Jan: 2. 1840.

No. 7. Letter from Wm. Branford Shubrick to N. P. Trist. Jan: 4. 1840. Enclosing report of Lieut.t Sinclair & Steedman.

No. 8. Report of Lieutenants Sinclair and Steedman of the U. S. Frigate "Macedonian," with the replies of the sailors of the schooner "Henry Clay," to the queries contained in Consul Trist's letter to Comm.o Shubrick.

N. P. Trist.

Havana Consulate No. 84.

Encls: 4. Aff: 2.
Sub-Encls: 1.

~~Document 101~~

Consulate of the United States of America

Havana November 2d. 1839

Captain Genge C. Boardman

Ship Huron of Portsmouth

Sir

There are three American Seaman James Stevens, Genge Williams, and William Sweeney) now in confinement at the Cabaña, in regard to whose condition of body it is desirable that I should obtain the testimony of some of that class of American Ship-Masters which enjoys respect and confidence wherever maritime commerce has penetrated.

I should esteem it a favour of Yourself and Captains Sturgis and Pike, of the Michigan and Senator, (together with any other gentleman of Your acquaintance who might feel a curiosity to see the interior of that celebrated fortress) to form a party to visit those men, to see them, and talk with them, with a view particularly, to enquire into their health, and ascertain whether this be such as to

afford

afford a likelihood of them dying very soon, or having their end precipitated by their confinement.

To Morrow will be a day of leisure, and if convenient to You and the weather be fine, the Deputy Consul will call to accompany You, and obtain admission into the Fortress.

I am Sir, very respectfully
Your obt Servt
(Signed) N. P. Trist.

Havana Consulate No. 84. Document No. 2 { Enclos: 4. Apps: 2. / Sub-Enclos: 2.

Consulate of the United States of America

Havana November 28th 1839

To William A. Spencer Esq

Commanding U. S. Ship Warren

Sir,

I beg leave to enclose a copy of a letter addressed by me on the 2d inst to Captain George C. Boardman of the Ship Huron of Portsmouth, the object of which, as You will perceive, was, to obtain the testimony of some of our countrymen in regard to the state of health of the three American Seaman therein named. In compliance with my request, a party was made up by Captain Boardman to visit the Cabana, and an afternoon (that of the 5th inst) appointed for the purpose. He however became unwell on the previous night, and thus began a post-ponement, which, in consequence of his protracted illness & death, has ended in a total failure.

I avail myself, therefore, of Your visit to the Port, to request Your attention to the subject. Any afternoon that it may suit Your convenience, my clerk will accompany You

to act as interpreter. If agreeable to You I should wish that two or three of our Merchant Captains might be of the party. Captains Sturgis and Pike (who were selected by me, for the reason that, like their friend the late Captain Boardman, they were Commanders of American Ships of the first class, casually here with large cargoes from Liverpool, and utter strangers to this port, as well as to myself) have both left here. Of those invited by Captain Boardman to accompany him, Captain Mattison of the Brig Eliza Davidson of Baltimore, also now for the first time known to me, is still here. A more suitable selection could not, I believe, have been made. To him, I would propose to add Captain David B. Barton of Warren Rhode Island, Master of the Packet Ship Norma; Captain Morgan S. Gordon of Portland, Master of the Barque Ellen, (two of the regular traders to this Port from New York) and Captain Charles M Folger of Nantucket Master of the Brig Hope & Susan of Nantucket.

I am Sir, very respectfully

Your obt Servt

N. P. Trist

Signed

Postcript The point specified in my letter to Captain Boardman as that to which I wished attention to be particularly given is, the condition of the men as to health. A Second point, in regard to which I will request You to ascertain the truth as far as possible, is, whether their treatment and condition have differed (and if so, in what particulars, and to what extent) from that experienced by the men of the Ship William Engs, who were confined in the same fortress, and whose confinement commenced about the same time with that of the present prisoners.

N. P. T.

Sub-Enclosure No 3.
Document No 2

United States Ship Warren
Havana November 30th 1839

Sir

I have the honor to acknowledge the receipt of Your communication of the 28th instant in which You call my attention to three American Seamen Viz James Stevens, George Williams and William Journeay, who are now confined at the Cabañas, for offences committed against the Laws of this place.

Yesterday I was accompanied by the First Lieutenant of this Ship, James T Gerry, the Surgeon, Daniel Egbert, and three Citizens of the United States of the highest respectability in a visit to these men; and we had an interview with them. after making the most thorough investigation in relation to their Situation, I am fully persuaded that so far as regards their health, their treatment and conditions and their supply of Shoes and clothing, there cannot be the least cause of complaint on the contrary, they expressed themselves as being supplied with those articles whenever they gave notice to You of being in want of them. the only complaint which was manifested was, in the necessary supply of provisions, but if I were allowed to judge from their general appearance (with the exception of George Williams who said he had had the Ague and Fever but always received proper medical treatment), I should unhesitatingly assert, that their appearance did not accord with their assertions, for so far as I was capable of judging, the two Seamen

James Stevens and William Sawney, appear in much better health than it is usual to find men under similar situations: I cannot believe their treatment or condition have differed at any time during their confinement but has been as mild as the nature of their case would admit of.

I am with great respect
Your Obt Servt.
W. A. Spencer
Commander

The above Statement made by Captain Spencer relative to the three American Seamen confined in the Cabañas Fort, comprises all the facts that we were able to obtain from an interview with them, and we agree fully in the views therein expressed.

Very Respectfully
Your obt Servts
James. T. Berry
Lieutenant U. S. Navy
Dan'l Egbert
Surgeon U. S. Navy

To
N. P. Trist Esqr
U. S. Consul
Havana

Havana Consulate No. 84.

{ Enclos: 4. App. 2.
Sub-Enclos: 4

Document No. 4

Havana, December 3rd 1839.

Sir,

Having in compliance with your request accompanied Captain Spencer of the U. S. S. Warren, to visit the three American Seamen confined at the Cabañas, I will proceed to state the result of my enquiries and views of their situation.

They stated, that from the beginning of their confinement two of the three persons had enjoyed perfectly good health, and from their appearance they appeared to enjoy the most perfect health, being very fleshy and robust and of a fine healthy countenance; indeed I could not desire to see healthier looking men. The appearance of the third bore marks of a recent illness, which we found on enquiry from him was caused by a recent attack of fever and ague, and was informed by him that he had been subject to yearly attacks of that disease for some years previous to his imprisonment.

When questioned by the Surgeon of the

U.

U. S. S. Warren who had accompanied Capt. Spencer he stated that so soon as he was taken sick he was removed to the hospital in the city, and there had every proper medical advice.

The only complaint they or either of them made was in regard to their being confined, and about the insufficiency of the Government ration of food; but so far as we could judge from their appearance, this must have been quite sufficient for health if not to satisfy their appetites; one of them was indeed remarkably fleshy, the third was of a more sallow complexion, he stated that he was a native of Philadelphia, but had been long time in the Mississippi district. When we applied to the commandant to see them they were called from their labour, which they stated to consist principally in breaking stones for Macadamizing the roads, and they worked in various parts of the garrison in the open air, they stated that they were supplied with every article of necessary clothing and shoes by the Consul whenever they let him know they were in want of any and also with tobacco, and they had no fault to find with their situation except that they thought hard that they should be kept in confinement without having committed any offence, whilst the crew of

the

the Ship Wm Engs who had beat their Captain should have been let out. I asked them whether there were any more Citizens of the United States confined there, they replied in the negative that the crew of the Wm Engs had been liberated some time previous.

I never saw a place kept in a more cleanly condition. I am persuaded one more so could not be found in any country. They did complain that they were not allowed a sufficiency of water for washing their clothes, which may be accounted for by the fact that there is not to be found any springs of water in the vicinity of the fortress; they having to depend on a very precarious supply of rain water, and when failing the supply for the fortress has to be carried over from fountains from this side, and likewise the people of Casa Blanca obtain their supplies in the same manner.

Indeed for men held in confinement as criminals I do not think from my knowledge of the treatment in various countries that they would find more leniency or more comfortable quarters anywhere else, our own country not excepted.

I remain, Sir, Your Obed.t Serv.t

Charles. M. Folger

Master of Schr. Hope and Susan

of Nantucket

Havana Consulate N°. 84.

Document N°. 5.

{ Enclos: 4. Appx: 2
Sub-Enclos: 5.

Copy.

Havana, March 10. 1840.

Sir:

Owing to my departure from this port in November last, at an early hour of the day following that on which I accompanied Captain Spencer of the U.S. Ship Warren to visit the three American seamen confined at the Cabaña, I found it impossible to comply with your request that I would give you a written statement of the result of said visit. Since my return here I have read the letters addressed to you under date the 30th. November and the 3d. December last by Captain Spencer and Captain Folger of the Hope & Susan, who was of the Party, and I concur fully in every thing there stated as to the condition of the men, both as seen by us and according to the account they gave of it.

I am respectfully Yours &c &c
(Signed) Morgan S. Gordon
Master of Barque Ellen of
New York.

N. P. Trist, Esq.
Consul of the U.S.

Havana Consulate No. 84.

{ Enclos: 4. Appx: 2.
Sub-Enclos: 6.

Document No. 6.

Consulate of the United States of America
Havana January 2. 1840.

To William B. Shubrick Esqr.
commanding the U. S. Squadron on the
West India Station.

Sir,

Of the calumnies recently published against the American Consul at Havana, not the least flagitious is one that had been in secresy concocted here between a miserable Mean Worm from the other side of the Atlan=tic, worthy, in all respects, of subservient fel=lowship in such mysteries, and the individ=ual known here to be the prime mover in the audacious game of imposture attempted upon our Government and Country, in regard to my acts and my character: an american resident of the place, whose supreme delight, after that of pocketing the fruits of the peculiar industry for which he proverbially enjoys a long established preeminence, has consisted for

years

years past in keeping up around me the atmosphere of falsehood which could alone afford hope of indulgence to the malignity that divides with lust of gold empire over his soul.

The subject matter of this calumny is of a nature to render it practicable that, through your instrumentality, some evidence may be obtained in regard thereto; and I experience, therefore, no hesitation in addressing to you a request upon the subject.

There are, as you already know, three American seamen of the Schooner Henry Clay, (James Stevens, George Williams and William Journay) now in confinement at the Cabaña, for infraction of the law against carrying pointed knives. (The strict enforcement of which law, by the by, was one of the most effectual of the means whereby General Tacon produced the wonderful change that immediately followed his arrival here: the substitution of absolute security of the person at all hours of the night as well as day, in place of the hourly robberies and stabbings which were made to cease as by the waving of a magician's wand.)

The confinement of these men commenced

menced shortly after that of the crew of the ship William Engs, who were kept in the same fortress, and, if I mistake not, in company with the three men abovenamed.

The request which I beg leave to make is, that you will appoint some of the officers of the squadron to visit these men, for the purpose particularly of obtaining from them the truth in regard to the following specific points:

1st Whether the men of the Wm Engs were, while at the Cabaña, kept in company with those of the Henry Clay.

2nd Whether they were kept at the same work.

3rd Whether any difference was made in their treatment by those in whose charge they were.

4th Whether any difference was made by the American Consul between the men of the Wm Engs and the men of the Henry Clay, in the assistance which he may have given them in the shape of shoes, clothes, tobacco &c.

5th Whether the crew of the William Engs were ever visited by a Dr. Madden.

6 Whether the crew of the Wm Engs received from Dr Madden assistance in money and clothes.

7th "

7th Whether the men of the Henry Clay received any share of this assistance.
8th Whether they ever received any share of the money contributed by the officers of the U. S. Ship Boston.
9th. Whether the men of the Henry Clay have ever seen or heard of Dr. Madden, or received any assistance from him since the men of the Wm Engs were discharged.
10th Whether, since the men of the Wm Engs were discharged, the men of the Henry Clay have ever been visited by any one as a friend except Mr. Daniel Warren.
11th Whether, since that time, they have ever received assistance from any one except Mr. Daniel Warren, or the Consul through him.
12th. Whether the men of the Henry Clay have ever received any intimation whatever from the Consul, or Daniel Warren, or any one else, that they were to be questioned or conversed with upon any of the forgoing points.
13th. Whether they have ever received any intima-tion whatever of the present visit.

My wish is, to obtain the truth in the shape of specific replies to each of the forgoing queries. For a reason that will be obvious to

any

any one acquainted with the sailor character, this had better be <u>extracted</u> from them, without awakening their suspicion by any show of formality in the proceeding. The conversation may be so conducted as to lead them to speak upon these points; and after they shall have done so, the questions might be distinctly put, so as to enable the officers who visit them to state, in reply to each point, <u>yes</u> or <u>no</u>, as the result of the information they received.

Obtained in any other way, the replies of the sailors could not be as free as, according to this plan, they will be, from the objection that they might have been suggested to them by me. Obtained in this way, the replies will carry with them the weight due to the testimony of the officers themselves, in regard to the fairness with which the truth has been extracted from the men. Their intimate familiarity with the sailor character, affords a strong presumption that they can readily distinguish the natural talk of a sailor, giving his own account of matters as they have really occurred, from any artificial

attempt

attempt on his part to repeat what he may have been told to say. To this point I wish their attention to be particularly given: that they may satisfy themselves as perfectly as possible, whether the men have received any instruction or intimation on the subject. And I would request that, in their report of the result, this point be placed in full relief.

I am, Sir, very respectfully
Your Obed't Serv't

~~Signed~~ N. P. Trist.

Havana Consulate No. 84.

Enclos: 4. App. 2.
Sub-Enclos: 7.

Document No. 7.

U.S. Frigate Macedonian
Havana 4th January 1840.

Sir:

In compliance with the request contained in your communication of the 2d inst I appointed Lieutenant Sinclair and Acting Lieutenant Steedman of this ship to visit the three men of the Schooner Henry Clay, at the Cabana; this was done by them yesterday morning, and the result will appear in the enclosed paper bearing the signatures of those officers.

Very respectfully
Yr. Obt. Sv.
[signed]
W. Branford Shubrick

N. P. Trist Esq.
U. States Consul,
Havana.

Havana Consulate N°. 84. Document N°. 3 {Enclos: 4. Aff: 2. / Sub-Enclos: 8.

Heads of Enquiry	Answers
1. Whether the men of the Wm Engs were, while at the Cabaña, kept in company with those of the Henry Clay. — —	Yes —
2. Whether they were kept at the same work.	Yes
3. Whether any difference was made in their treatment by those in whose charge they were.	None whatever —
4. Whether any difference was made by the American Consul between the men of the Wm Engs and the men of the Henry Clay, in the assistance which he may have given them in the shape of shoes, clothes, tobacco &c. —	None —
5. Whether the crew of the Wm Engs were ever visited by a Dr. Madden	Yes
6. Whether the crew of the Wm Engs received from Dr Madden assistance in money and clothes.	Yes —
7. Whether the men of the Henry Clay received any share of this assistance.	Received a suit of clothes from Dr Madden

Heads of Enquiry	Answers.
8. Whether they ever received any share of the money contributed by the officers of the U. S. Ship Boston.	The money was dis- -ded between Cl- who was discharg- from one of the Henry C- men —
9. Whether the men of the Henry Clay have ever seen or heard of Dr. Madden, or received any assistance from him since the men of the Wm Engs were discharged.	Have never seen - heard from him si-
10. Whether, since the men of the Wm Engs were discharged, the men of the Henry Clay have ever been visited by any one as a friend except Mr Daniel Warren.	Have been visited - one or two - Warren & Consul - agent -
11. Whether since that time they have ever received assistance from any one except Mr Daniel Warren, or the Consul through him.	No ——
12. Whether the men of the Henry Clay have ever received any intimation whatever from the Consul, or Daniel Warren, or any one else, that they were to be questioned or conversed with upon any of the foregoing points.	None whatever

Heads of Enquiry	Answers.
13. Whether they have ever received any intimation whatever of the present visit. —	No —

We certify that Having this day visited the three American Seamen of the Henry Clay, now confined at the Aabana and Conversed with them in the manner requested by the Consul, we then propounded to them the foregoing questions to which we received the answers above written. They prove such as we were led to anticipate from the previous Conversation, and the interview left no doubt upon our minds that the men were speaking the truth, without any suspicion of our design to Question them particularly upon any point until we did so

Respectfully &c
A. Sinclair
Lt U.S.N.

Chas Steadman
Acting Lieut
U.S.N.

U.S. Frigate Macedonian
Harbor of Havana January 3d 1843

R. 15th July
Mr. Fairfield

No. 139 [Havana Consulate]

Washington July 14. 1840.

Hon: John Forsyth
Secretary of State

Sir,

On the 8th inst., a memorial was pre-
sented to the House of Representatives by Mr.
Curtis of New York, referred to the Committee on
Commerce, and ordered to be printed. It was, on
~~Saturday last~~, laid on the members' desks [Doc.
No. 255] under the title "Seamen of the United
States versus Consul Trist," and to preclude de-
lay. I beg leave to enclose a copy, [Enclosure No. 1.] and to make my
answer to it at once.

I will first reply to this memorial,
considered in itself, without reference to aught
extrinsic, and under the supposition that it truly
is what it purports to be, a bona fide petition, le-
gally proceeding from the sailors in whose names
it speaks and whose signatures it bears. This being
done, I will then enquire into its origin, and point

to the proofs that it is spurious,— a fabrication con-
-trived and got up by "Ferdinand Clark merchant,"
the person whose name heads the "protest" append-
-ed to it by way of endorsement of all that it con-
-tains

First aspect: The memorial begins by setting forth, That the memorialists, "American mariners, attached, and formerly attached, to mer-
-chant vessels in the commerce of the United States of America," are greatly aggrieved and ag-
-gravated by the laws and regulations said to be made by the American Consul, Nicholas P. Trist, for the port of Havana, regarding us mariners. When we are permitted to remain on shore, and are discharged from our vessels, we are directed by the Consul to repair to the house of one Daniel Warren, a native of Ireland, and there take up our abode, under his charge and con-
-trol, under the penalty of fine and imprison-
-ment for non-compliance with the Consul's im-
-perious mandates. Thus we are conducted from our floating barge, with our penny in pocket, earned in the storms, tempest, cold, heat, and fa-
-tal climates, into the hands of a landlord not of our voluntary dictation or choice."

This averment, that sailors, upon being

discharged from their vessels, are directed and compelled to take up their abode at the boarding-house of Daniel Warren, will be seen to be the only ground of complaint, distinctly or definitely set forth, and to constitute the entire burthen of this Spanish-english [for that it was never written by a man born and bred to the english tongue, is stamped upon its face] diatribe.

I reply to it, in the first place, that it is false. It is a pure fiction. No sailor discharged from his vessel [a] ever was required or directed by the Consul, or by any one in his employ, to board at Daniel Warren's house, or at any other man's house. I will reply to it, in the second place, that, not only is it destitute of truth, but it is the very reverse of the truth: for, ever since this wanton and malig-

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[a] Destitute sailors, i.e. sailors cast upon the Consul's hands for sustenance and protection, are sent to Daniel Warren's. It is my official duty to provide for and take care of them. It is a part of that duty to put them to board at that house where I deem them least exposed to temptation to debauchery, to sickness, and to detention in port. Such a selection of a boarding house is necessarily attendant upon the discharge of a Consul's duty. It was, I know, found to be so by my immediate predecessor in office; it has, I presume, been found to be so by all other Consuls. I will add that I have never heard a syllable of complaint on the subject from any sailor under my charge. The clamor on this subject is the secret work of W. Ferdinand Clark and the crimps whose business I have broken up, and who,

-nant fabrication was first set afloat at Havana, it has been the constant, unvarying ~~custom~~ practice at my Consulate, whenever a sailor is discharged there, to in=form him that he has a right to "take up his abode" wherever he pleases. He is required to present himself at Daniel Warren's; but he is made distinctly to un=derstand that this is for no other purpose than that he may become known to Warren as a sailor who has been lawfully discharged. That he should become thus known is indispensable, because Warren is the licensed Shipping-master of the Port,—the person whose agency must be used by any captain who engages a sailor for his vessel, and who is under the heaviest penalty not to give that agency in regard to any sailor not known to him to have been law=-fully discharged from the vessel which brought him to the port.

For the history of this subject,—the extent to which desertion formerly prevailed at Havana, -the disastrous, bitter and fatal fruits in every shape which it bore for the sailor,—the necessity of putting a stop to it in order to protect him from the oppression under which he groaned,—the manner in which the office of shipping-master has been rendered by me con=du=

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like all other haters of the "the Consul," become ipso facto protegés and bosom allies of that personage.

=ducive

ducive to this great end,—the important benefits thereby rendered to ship-masters and ship-owners in the saving of trouble and expense,—for all this, I refer to other communications, particularly my N°. 105, ~~xxxxx~~ and N°. 137. Enclosures, Part 1. Let those documents be perused, and the reader will have formed some conception of the relation in which I have, from the outset of my official career, stood towards the "poor sailor" whom I am here represented as tyrannizing over, in a mode which the basest and most sordid of men would alone be capable of. Let the state of things which I found at Havana, as depicted by William Shaler [a name of no common repute, an authority of no ordinary weight, on such a subject particularly,] be compared with the state of things which now exists there, as attested by American ship-masters of the highest standing, and which I have succeeded in establishing, by means, in a great measure, of this office of shipping master, in the hands of "one Daniel Warren." Let this comparison be instituted, and then some conception will be formed of the extent to which this "monopoly" [as it is termed in the "protest" of the public spirited and sailor-loving "Ferdinand Clark, merchant"] has proved, or is likely to prove, fraught with in-

justice and detriment to us mariners with our penny in pocket, earned in the storms, tempest, cold, heat and fatal climates."

Second aspect. Having replied to the memorial, considered in itself, I now propose to consider it with reference to its origin, — to such portion of the collateral matter of fact, wherewith, itself one atom in the great ocean of events, it stands connected, as may be pertinent to the question, whether it be an honest and true expression of grievance, real or fancied, or a covert outpouring of malignity from the bosoms of contrivers who found it convenient to put their calumny into the shape of a complaint from the weatherbeaten tar.

Had this been the one only complaint against me, even then the question just stated would not be devoid of importance: for even when shewn to be groundless, an imputation cast upon a public servant will make, — and it is right and just that it should make, — an essentially different impression, according as it may be seen to have arisen from misconception or from wilfull and deliberate malice. In the one case it can scarcely fail to leave upon the mind, in greater or less force according to circumstances, a sentiment unfavorable to the general character of the accused, resulting from the mere fact that

the act imputed to him, although erroneously imputed, was honestly believed in by persons in immediate contact with him. When, on the contrary, it is seen to have been engendered by malice and falsehood, the sentiment that is ready in every honest bosom to rise up against villainy, arouses; and there is unconsciously awakened in behalf of the accused the presumption in favor of general character, and the sympathy, due to every man found contending with villainy. If, therefore, such be the origin of any imputation upon any character, justice requires that the fact be shewn, and that we do not rest satisfied with knowing ~~the sincere falsity of~~ merely that the charge is untrue.

But the importance of this supplemental enquiry, and it's claim upon our justice become immeasurably magnified when viewed in it's possible bearings upon other imputations from the same source, whether upon the same or upon other individuals. The man capable of plotting and putting afloat one calumny against one man is capable of doing so a hundred times against a hundred different men. The fact that he is capable of such things is therefore a fact which society at large is interested in having made public; and every human being particularly whose position is

such as to expose him to any risk of becoming an object of the Slanderer's villany, has a right that pains should be taken to ascertain ~~and expose~~ his character, and ~~if~~ make it known.

Upon this principle it is, that, both on my own account and for the general cause of truth and justice, I deem it proper to engage in what might, on a superficial glance, be deemed the supererogatory task of demonstrating that this memorial is a piece of handiwork from the shop of W. Ferdinand Clark. In the course of this demonstration, much light will be seen to be shed from bits of paper, which, separately considered, are, to all appearance, of the most trivial and worthless character; and which would truly be so, had not the utter shamelessness of villany which presided at the concoction of these documents chanced to be conjoined with a degree of recklessness so great as to permit them to be sent forth into the light of day, written in a sameness of style and of handwriting even, which cannot escape detection from the dullest eye.

That demonstration will be found in the paper herein enclosed. [Enclosure N°. 2.] Had I time, and were it worth while, I might enquire into the character, national, professional and moral, of

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the signers of this "protest," headed by "Ferdinand Clark, merchant," and purporting to proceed from "American ship-masters and owners, and others interested in the commerce of Havana," with a view to ascertain how far it may be entitled to respectful attention as a real expression of opinion or sentiment coming from American citizens, or whether it is entitled in all respects to a place on the same shelf with prior products of M. Clark's patriotic industry. [a] Among the signatures, I see the names of some ship-masters of the highest respectability. How their signatures were obtained may be judged of from the incident related at the close of my N°. 105, ~~[illegible]~~ with respect to Captain Pike, and from that concerning the Address (Public dinner) to Commander Babbit, stated in my N°. 106. ~~[illegible]~~ Besides these ship-masters of the highest respectability, there are others whose claims in this regard may be estimated from the fact that they are particular friends of M. Ferdinand Clark. Of the other signers, some are manifestly foreigners, coming under the designation "others," provided in the ~~protest~~ heading of the protest for all nondescripts whose names might be got to it, to give it an imposing appearance at a distance. One puts himself down

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[a] See particularly ~~[illegible]~~ the various enclosures to N°. 84.

as a "civil engineer"; a calling which may be pre=
=sumed to afford a very accurate insight into, and
a very lively interest in, the subject which he con=
=curs with M. Clark in disapproving. Of the
eight "merchants" and three "traders," in all eleven;
three are known to me by name. Of the rest, I do
not think I ever heard or saw one of the names.
They would, I entertain no doubt, be vainly search
=ed for in the shipping lists and other commercial
publications of Havana. The three known to me,
are Ferdinand Clark, Butler & Sage, and
Bremo Cabot. The last is a retail grocer, who, I sus
=pect, has never so much as seen our country. He is
a rival in trade of the man whom I deal with my
=self and recommend to others; and moreover the af=
=fectionate patron of the most vagabond vagrant
in the city, once I, when the trade of decoying sailors
to desert was a thriving business, a "runner" in the
service of the crimps. The firm, "Butler & Sage,"
is of recent establishment at Havana, where it
had but a rickety and short existence. M. Sage
brought there an excellent character; which, so
far as I know, was fully maintained. The indivi=
=dual, with whose name he was thus betrayed
into thus connecting his own, came there with a charac=
=ter long established at Matanzas and that neigh
=bourhood, as the very reverse of good. It also was

fully maintained; and Mr. Butler finally dis-
appeared without having made his purpose to do
so at all public, leaving sundry proofs of a gam-
bling business in the shape of a balance against
him, so heavy as to be a wonder and of general how it could
have been possible for a personage such as he to
run so deep in debt. From this sketch of the
two men, a presumption may be drawn as to which
of the two was the actor in placing the signature
of the firm in conjunction with that of "Ferdinand
Clark, merchant."

Iam, Sir, very respectfully
Your Ob: Servt:
A. J. Hill.

Postscript. The name which follows "Bremo Cabot, mer-
chant" is "James Regent Manly, interpreter". For years
past this personage has been known to me (by name — I
am not aware that I ever saw him) as a stroller, a na-
tive of some British colony, who has found his way to Ha-
vana, where he eked out a subsistence as a coffee-house
lounger by jobbing of various sorts; among the rest, hi-
ring himself as an interpreter to strangers on excur-
sions into the interior.

Concerning him, and in connection with a bo-
som friend of his by the name of Edmonston, a character
also well known at Havana, (the same who figures in

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the confidential land title communication made by me in 1837 or 8,) there is an entry in a memorandum-book kept by me at Havana, of the heads of a communication orally made to me by W. McDaniel of Mississippi, a young gentleman who visited Cuba for his health in the winter of 1837–8, and who, I have recently learnt from one of the representatives of that State, (W. Thompson) is still living. The entry is as follows:

"1838. March 14. W. McDaniel tells me of the "grand operations for my removal. W. Edmonston's letter "to W. Manly, his friend in this city. Manly read the "letter to McD.— The way he came to do so was this: Manly "sells cigars, McD. went there to purchase some, when "Manly entered into conversation. What part of the States? "Mississippi. Did he know a man by the name of Ed- "monston who lived there? Yes.— Well he had got a letter "from him, which he would read to him.— McD. says "the expressions of the letter were, "circulate such a "paper as W. Clark will draw up". "Don't let "Clark know that I have written to you about it,— "keep it from him." He also spoke of Manly's for- "tune being made in the way of buccets."

Some days previously to this visit from W. McDaniel, I had gone to a dentist's (Charles Blakely, a pupil of the celebrated Parmly of New York) to get a tooth plugged. He is a mulatto man, and being once fellow-passengers together to New-

York

York, I treated him, then & afterwards, as I would had he been a white man of the same merit. He is in consequence very friendly to me; and, while at work upon my tooth, told me of this letter of Edmonston's, which had been shewn him by Manly, and of which he had asked to be allowed to take a copy, intending it for my use. He mentioned a good many particulars regarding the machinations against me, at which he seemed a good deal concerned, and which I desired him not to trouble himself about in any way. All I desired of my friends was, to let these people play out their own game, and they would be here to cut their own throats.

Such is "James Regent Manly interpreter"! Such the document wherewith it was hoped to practice imposture upon the Congress of the United States of America!!

L.P.T.

Havana Consulate No. 139. Enclosure No. 1.

26th Congress, 1st Session. Doc. No. 255. Ho. of Reps.

SEAMEN OF THE UNITED STATES *versus* CONSUL TRIST.

MEMORIAL

OF

G. F. RUSSELL, AND OTHERS,

AGAINST

The conduct of N. P. Trist, American consul at Havana.

JULY 8, 1840.

Referred to the Committee on Commerce.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The undersigned, American mariners, attached, and formerly attached, to merchant vessels in the commerce of the United States of America,

HUMBLY SHEWETH:

That they are greatly aggrieved and aggravated by the laws and regulations said to be made by the American consul, Nicholas P. Trist, for the port of Havana, regarding us mariners. When we are permitted to remain on shore, and are discharged from our vessel, we are directed by the consul to repair to the house of one Daniel Warren, a native of Ireland, and there take up our abode, under his charge and control, under the penalty of a fine and imprisonment for non-compliance with the consul's imperious mandates. Thus we are conducted from our floating barge, with our penny in pocket, earned in the storms, tempest, cold, heat, and fatal climates, into the hands of a landlord not of our voluntary dictation or choice. Always obedient to the laws and regulations where we chance to land, we do not care what they are, if not exclusively made for catching our penny, and casting us into hen-coops or dungeons, for our stay is short inland; but when we are told that the American consul boasts of his authority, and excellent laws and regulations adapted to the comfort and pleasure of us strangers, under the roof of a certain landlord, where we must spend our time and money; and as a confirmation of his great and arbitrary proceedings with respect to ourselves, he has now in hand a representation, drawn up by himself, which he asks our captains to sign as a testimony of their approbation of the laws which he has despotically subjected us to, intending to present it before Congress as a justification of his wilful conduct to us free-born Americans. Thus refusing and depriving us of choosing or dictating our place of abode, and spending our hard earned money in the house that

best suits our convenience and pleasure—we, that have fought our nation's battles upon the great deep, won numerous victories, raised and lashed the stars and stripes to the masts—we, that have landed on barbarous shores, when but few, and at the risk of our fortunes and lives chastised our unjust enemies—we, that navigate the great deep, and conduct our merchandise to every clime, transport our ambassadors and consuls, all for the unity and benefit of mankind, are to be numbered among the worthiest.

The degrading regulations made by the consul in this port for us, we are satisfied were not authorized or requested by our representatives at home; and we most solemnly and justly protest against whatever law or regulation that is now in force in this port, made by N. P. Trist, regarding compelling us to take our lodgings in a certain house kept by Daniel Warren, in this city, as also of the expenses we are subjected to, and the mode of keeping and shipping us. The consul may obtain as many captains' signatures to his infernal and illiberal representation regarding his arrangement for us sailors, as will reach from Havana to Washington city, or to the Speaker's mouth of Congress; we are free and independent, and will be heard in Congress, and claim our just rights and privileges. We feel sensibly the degrading and abusive regulation fastened upon us while we are here, and hope and pray Congress will hear and listen to our humble petition, and relieve us from the unjust and cruel consular mandates existing at this port regarding ourselves as mariners; and we ever pray Congress to appoint a consul who will treat us kindly, and defend our rights and privileges while we are absent in a foreign land, and especially protect us if unfortunately we fall into prison, and troubles that we are liable to.

Signed by G. F. Russell, and 95 others.

A certificate signed by Ferdinand Clark, and sixty others, merchants and shipmasters, setting forth that they disapprove of the conduct of said consul (N. P. Trist) in respect to the matter complained of in the above memorial.

We, the undersigned, American shipmasters and owners, and others interested in the commerce of Havana, disapprove of the arrangement made with Daniel Warren for the receiving and shipping seamen in the port of Havana; it having a tendency to monopoly, and other unfavorable results, explained in a memorial annexed to this protest.

Ferdinand Clark, merchant,
W. de Romain, merchant,
Jinkins H. Murphy, schr. Nymph,
T. Carverat, merchant,
John Russell, trader,
Robert Wyllie, schooner Eagle,
James Agnew, jr., ship Chandler,
M. A. Anderson, brig Catharine,
Butler & Sage, merchants,
N. Hoyt, brig Planet,
R. Preastley, schooner Cassius,
J. H. Hastings, schooner Harriet,
Leon Russell, schooner Emblem,
Jos. R. Benjamin, schr. Richmond.
Geo. B. Sturges, ship Michigan,
Salisbury Haley, schooner Hope,
John Jepson, brig Rebecca,
W. Weems, shipmaster,
Michael Powers, brig Thoosa,
H. W. Meyer, brig Dorothea Louise, of Bremen,
Jacob Pike, ship Senator,
George C. Boardman, ship Huron,
James M. Read, schooner J. Brown,
Wilson Cowan, trader,
James B. Harney, brig Ellsworth,

W. T. French, ship Hermitage,
D. Farwell, ship Franklin,
Wm. Bowder, brig Sarah Ann Alley,
Isaac S. Brookfield, schr. Delaware,
R. C. Mollen, schr. Centipede,
James M. Freland, schr. Hornet,
Alex. B. Hanna, schr. Bahia Packet,
D. W. Thompson, master,
G. L. Stanwood, brig Hogan,
Charles Fish, brig Star,
Robert Goodyear, trader,
Bremo Cabot, merchant,
James Regent Manly, interpreter,
W. Hunt, brig Geo. Turner,
J. H. Safford, brig Nerida,
Edward Gooding, brig Friester,
Walter Carpenter, brig Hesse Petren,
Zenas Lowry, barque Rothschild,
Alfred Blanchard, brig Only Son,
Gustavus Schneidam, schr. Cora,
Charles Thomas, brig Charleston,
John B. Conner, schooner Wasp,
W. W. Huffington, brig El Caballero,
David Barry, schooner Hornet,
Isaac Russell, schr. Herald,
Jno. J. Ritching, merchant,
Jos. H. Toone, brig Tantivy,
Edward A. G. Young, civil engineer.
Henry Place, schr. Virginia Antoinette.
F. G. Sparks, brig Freeman,
Philip Bridges, schooner John,
Thomas Davies, merchant,
Alex. Hanna, schooner Hound,
John I. Davis, brig Ventrosa,
Grafton Sears, schooner Frances,
Daniel Braw, schr. Harriet Smith,
W. C. Flanders, schooner Geneva,
Thomas Skinner, schr. Nonpareil.

HAVANA, *February* 15, 1840.

Havana Consulate, N.º 139. Enclosure N.º 2.

Ferdinand Clark's counting-house the recepta=cle for defamatory matter of every sort against Consul Trist, to be there fabricated into letters, memorials, &c.

On the 8th. of July 1840, a memorial against Consul Trist, from sundry mariners and merchants at Havana, was presented to the House of Representatives by W. Curtis of New York, and referred to the Committee on Commerce. This document, will, at a glance, be seen to be the com=position of a foreigner, to whom the english language is far from being familiar; and upn examination of the hand-writing, this will be seen to be a very pecu=liar and remarkable one.

Among the documents transmitted to the Secretary of State by Captain Abraham Wendell Jr., as enclosures in his letter, dated New York, May 23. 1839, are comprised the following, to wit:
1st: a letter from Baer, Bailey & Co. to Captain A. Wendell Jr. dated Matanzas 15. July 1839.
2nd: "Extract of a letter from D. C. and S. relative to Kremlin."

3rd: A letter, dated Royal Prison 9th: November 1833, addressed to Ferdinand Clarke Esqre and signed, Franco Xavr. de Ealo.

The two first purport to be copies, the last, to be an original. Of these two copies, the first has annexed to it two certificates of it's being a true copy; one of which certificates bears, among other signatures, that of Ferdinand Clark, and the other is, indubitably written by the same hand, with the same pen and ink as the first signature to it, which is that of Angel de Aispurúa, followed by Jose Julian Aguirre and Tranquilino Cacho Negrete. The second of the two copies, bears but one certificate, the same in all respects with the latter of the two certificates just descri=ed: that is to say, written by Angel de Aispurúa, the first of the three signers.

Now who are these three signers? They are Spanish clerks, at that time in the employ of Ferdinand Clark.

On comparing the avowed hand-writing of this Angel, as here seen upon these certificates, with the hand-writing of the third of the above named documents, purporting to be an original letter from a certain Ealo, it will be quite plain that they are the same.

But there is one point regarding

which no shade of doubt can rest upon the mind of any man making the comparison; and that point is, the absolute identity of the hand-writing, and of the style, seen in this letter of Calo, and the hand-writing and style of the following documents [which will be seen, each, to be signed by a different hand from that in which it is written, and to agree in the other particular, also, that each evinces an intense animosity and defamatory spirit against Consul Trist.] viz:

1st: A petition signed, Love Straw, enclosed in a letter to the President of the U. S. from John Fairfield, dated House of Representatives December 17. 1838.

2nd: A letter, dated Royal Prison 18th: November 1838, addressed to N. P. Trist Esqre, and signed, Love Straw. [Sub-enclosure No. 1.]

3rd: A letter, dated Royal Prison 24th: December 1838, addressed to N. P. Trist Esqre Consul of the United States, Havana, signed Jacob S. Howell. [sub-enclosure No. 2.]

4th: A letter, dated Havana Royal Prison 25th December 1838, addressed to the Commander of the United States sloop of war Ontario, signed Jacob S. Howell. [a] Sub-enclosure No. 3.

N. P. Trist.

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[a] On referring to my Nos. 48 and 123, and my

No. 61., Wm. this Jacob S. Howell will be seen to have been the personage who, first as master of the Brig Antelope, was starving, & literally starving, his black crew in jail at Havana; and next, as master of the American Brig "Thomas of Havana," attempting to do what one of our respectable ship-masters then in port said "he deserved to be hung for," that is, "sell his country's flag to a slave-trader:" which purpose, he thought to have accomplished, and to have put beyond the possibility of interference from "our tyrannical Consul," ~~interference~~ by running her over to Key West, and returning with a clearance from that port under the American flag. Such was this protégé of "Ferdinand Clark merchant"!

N. P. T.

N. P. Trist Esq re

Havana

Royal Prison 10. nov. 1838

Sir

You are acquainted already of my being in this Prison & yesterday sentence was passed to me for Ten Years Presidio. I had never an intention of embezzling the 369 ounces brought on Freight. I had reported them as robbed together with 293 Dollars & some clothes of mine which had been effectually so. It appeared afterwards that the Dou bloons had been packed in a different or another Trunk, where they remained till it was searched - having once taken the oath of the Cash having been robed & finding it afterwards the excitement was so great that I hardly Knew how to act! I applied immediately to Mr. Clarke, but unfortunately did not find him at home & from the state of my mind I fell sick & distracted. Had my intention or views been of appropriating to myself the money Could I not have stowed it in the Hold or some other Place out of

the reach of the public officers or there
No Robbery has been committed the Property
restored & am I to be condemned as a
felon? Surely my case deserving
to be represented to the Capt. General here
& to the Govt in Madrid thro' the
Secty of State Washington & the Minister
there. I have to entreat beg &
request of you to make use of
your official situation to this effect
as you are bound to protect your
Country men & as a great change
to that effect in this City.

I have the honor
to remain Your Obedt Servt
Lewis Strawn

Postscriptum

The Sentence passed on me would or
should hardly have been applied to a
common old Robber or even a murderer!!!

Havana Consulate No. 139.

{Enclosure No. 2.
{Sub-Enclosure No. 1.

Capt. S. Worrell, Master Brig Thomas Dec. 21 December 24 1838.

Royal Prison
24th December 1838

Sir

It is now several days since
I was brought to this Prison where I lay
without cause or reason having delivered
to you the Papers I received in Key
West. No blame can be thrown upon
me if any error has or may have been
found in them. Therefore my actual
Confinement is unstipiable on no Ground
of one sort or another. No real cause
can be assigned for this hard proce
ding and therefore you will no doubt
order my immediate release.

I have at the same
time to request you will allow me
to effect the Sale of the Brig Thomas
finding myself considerably indebted
in this City. Besides which she
is in a leaky state, wanting thorough

repairs & fencing myself &c &c &c. I want
the means necessary for the Object

Hoping you will
accede or grant to me both the afore
said requests

I beg to remain
Sir
Your Humble Servant
Lt Col. J. Bowlly

N. P. Trist Esq.re Consul for the
United States
Havana.

Adana Consulate No. 139.

{Enclosure No. 2.
{Sub-Enclosure No. 2.

~~Jacob F. Howell, Master of the Brig Thomas of Norwich~~
~~& Capt. McKenney~~
~~Rec.d from Capt M.K. December 1838~~

Havana Royal Prison
25th December 1838

Sir

How hard it is to be under the sway of a Public foreign Agent as our Consul, who in lieu of protecting his Countrymen, feels a pleasure in recommending them to a Prison, as he has done with me.

N. P. Trist finds that a long imprisonment should now & then befall to one or another of the American ship Masters trading here in order I suppose, of Keeping proper discipline amongst them.

Captn Wendell was preparing himself to enjoy the sweet liberty to which we are accustomed from childhood, when I was taken to fill the vacancy that was to happen & did so.

The apresd captn will never forget, that had it not been for the Kind, humane & respectable interference of the

United S. Ship of war Boston, the Master
have been obliged to remain another Six
Months, in that hard confinement.

As it is, the loss of time
& injury brot on him shall never be repaid
by the Consul sufficiently.

I do now as an American
Citizen find myself under the disagreeable
but impressive necessity of beseeching
that actuated as you no doubt are
by the same noble sentiments of the
Commander of the Boston, you will
cover me with the invincible Egide
of our happy land & have me liberated
from the Misery of an imprisonment
in a foreign country.

You are already saware
that the Brig Thomas belonging to
me, had been registered in the Custom
House of Key west as my Property.

A regular clearance &
the necessary Sea letter, in order to
navigate her, were granted to me &
the Flag of our country being hoisted

I came here as I had prospects of some profitable freight

Within the Twenty four hours of my arrival, I produced my Papers to the Consul who gave me his receipt.

All at once & with the various Men I had then on Board I was taken & brought here.

I have no grievance, no complaint to make against the Local Authorities as I consider that they must have been instigated by the Consul, to the above effect.

Where is my crime to Keep me in Jail as a Criminal? Are not the Papers of the Thomas genuine? Were they not granted to me by the Collector of the Custom House of Key West? Is there any one missing of such as he handed to me? Does not that officer Know his Duty & supposing that has violated it, am I to be answerable or is he the Person that has to depute such Charges as may be brought unto or upon him?

Is there any error in the drawing of the Sea Letter, as it has been vaguely reported in public? Such being the case, I am certainly out of any charge, or crime, for I have not to answer for the error or errors that might be or were commited by the Clerk who drew the Documents!

It is said that the Brig is mentioned in the Sea letter as belonging to the "Havanah, instead of ment.g or expressing that she is of "Roy West." certainly, this cannot be a motive why I should be Kept in this lonely Prison. The only cause for such a proceeding or one as might have justified this singular act, should have been "the fatseness of my Papers."

As long as from their contents it appears they are genuine, my responsability as an American Ship Master is ended.

The Men who were brought with me to this Prison, fifteen in number, have to be liberated to day. The order for their Liberty is drawn out & I have to remain confined till it pleases so

to our Consul

The Captain of the Port all other public officers belonging to this Place feel the highest Sympathy & they dont wish to punish foreigners unless they have committed some Crime.

They from the highest to the lowest bear the best feelings particularly to all Strangers who come here to trade.

No excuse can be offered which may be called plausible for my confinement by the author of it. our Consul

My Spanish Friends are ready to give Bonds to any amount, respecting the genuiness of the Papers I delivered to the Consul as also of their having been given or handed to me by the Custom House or such proper officers as have the charge of at Key West.

They are ready to answer that in case any mistake had crept in the drawing of the Sea

letter, that the same shall be rectified
They are ready to bind themse
ved if necessary that I shall produce new
Documents to navigate the Vessel fr
Bay mess if any formality be wanting
to them I presented them in due
time & order

My personal differences with
the Agent A. Hart Cogs & the claims
of a pecuniary nature I have to make
on him for such losses as I have
sustained thro' him before, cannot b
sufficient motives for my actual
sufferings It is to you Sir to
put an end to them as Capt
Babbidge acted with Mr Wendell

You will by such
conduct be entitled to the
best thanks of your Humble
Obed Servant

Jacob S. Howell

The Commander
of the United States Sloop of War
Ontario

Havana Consulate No. 139.

{Enclosure No. 2.
{Sub-Enclosure No. 3.

Rec'd. 16th July
W. Ringgold

House of Repns. July 16. 1840

Hon John Forsyth
Secretary of State.

Sir,

The Committee on Commerce having disposed of the case of Consul Trist, I have now the honor to return the documents received from the Department of State for the use of the Committee.

I am, Sir,
very respectfully
Y. Obt. Servt.

Edmund Curtis
Chr. Com: Comm.

Rec'd 17th July
Mr Forsyth.

No. 140 (Havana Consulate)

Washington, July 16. 1840.

Hon: John Forsyth
Secretary of State.

Sir,

I have the honor to transmit (Enclosure No 1.) a statement of the case of the Master of the Brig Kremlin, containing some particulars ~~in~~ additional to those stated in my communication No. 62, and presenting the subject in a more convenient form.

I am, Sir, very respectfully
Y. Obt. Servt.
J. P. Hill.

Havana Consulate No. 140 Enclosure No. 1.

~~22 Jan 1841~~ The copyist may cut these leaves asunder if convenient

Havana Consulate No. 84. Enclosure No. 3.

Statement of the case of the Brig Kremlin.

This case, in all its details, and with its various incidents, will be found reported in my No. 62, and the Appendices thereto. (a) Here will be given only an outline of the nucleus round which all that matter has collected.

In June 1838, the Brig Kremlin of New York, Abraham Wendell Jr. Master, was despatched by her owners, Messrs. John Peters & Co. to Matanzas. The voyage, as defined in the shipping articles to which the crew were parties, was as follows: "From the Port of New York to Matanzas and from thence to such Ports and places in Europe as the Master shall direct."

(a) See particularly Nos 84. 104. 106. 125. 133. 134. 135. & 140.

"and to a Port of Discharge in the United States; or from Matanzas direct to New York, at the option of the master." [Although a letter of instructions from the owners to the master must necessarily be without force to bind any third party, and could not therefore be adduced as testimony against the crew, in any difference between the master and themselves with regard to the voyage for which they were bound to the vessel, yet it may be mentioned here, that the letter of instructions in the present case is of a tenor to corroborate the inference deducible from the shipping articles, to wit: that, at the time of the Kremlin's leaving New York, her owners had no expectation that she would visit Havana.]

Finding business dull at Matanzas, the master of the Kremlin determined to proceed to Havana, at which port he arrived on the 6th of July 1838.

On the 12th: day of the same month, William Bell, first-mate of the Kremlin, presented himself at the American Consulate, to claim the protection of the Consul under the following state of facts:

On the day previous, the Captain was, before mid-day, already very much

heated with drink, and insulted complainant while engaged in the duties of his post discharg=ing cargo, by the most abusive language. (b) On the night of that day, the captain, who had gone on shore, returned to the brig about 11 o'clock, still under high excitement from liquor. Bell, who had been sitting up, awaiting his return, thereupon retired to his berth. He had been there but a short time when the captain, who had re=newed his abusive language of the forenoon, gave him a severe blow in the chest (the bruise was seen by the Consul the next day) with a stout stick, which, holding it in both hands, he attempted to drive end foremost into his ribs.

(b) His anger was ascribed by the mate to the following circumstance: The latter was engaged in delivering lumber, whereof the cargo in part consisted, to a Spanish Clerk of the purchaser. Captain Wendell came up and instructed him to pursue a particular course for the purpose of making the lumber, as it was delivered, count for more than its true measurement. Of this the mate took no heed. He had no idea of carrying his obedience so far as to conform to an order to cheat. Moreover, believing that the man whom it was designed to operate against, heard and understood it as well as he did, he felt ashamed to engage in conversation on the subject in his presence; and, as the only means of avoiding it, held his tongue.

This use of the stick would have been repeated had not Bell, springing out of his berth, taken it away. A heavy blow with the fist, which he then received in his face, compelled him to seize his assail- ant by the arms and hold him, as the only means of protecting his person against further violence. For doing this, he was told by the cap- tain that he was guilty of mutiny, in laying hands upon his commander, and should be put in irons; to which he replied that this was a disgrace to which he had never in his life been subjected, and could not now submit to, conscious as he was, that he had done nothing to deserve it, and that there was nothing to render it necessary; that he was ready to obey any order the captain might give him, and go to any part of the vessel he might direct; and if this did not satisfy him, the Guard-ship lay close by, which the captain might hail, and which would send a guard to take him into custody; but if he persisted in beating him he must pro- tect himself by holding him.

This scene in the cabin, involving repeated threats on the part of the captain to shoot the mate unless he submitted to be

ironed

-ironed, ended by his being ordered ~~on deck~~ upon deck; which order was instantly obeyed. The captain followed him there, with a pair of loaded pistols and irons, which he insisted upon putting on, repeating his threats to shoot him unless he allowed it to be done. The mate persisted in his refusal to submit to this wan=
=ton indignity, (which, moreover, would have put his person completely at the mercy of an infuriated madman) although he believ=
=ed that the probable consequence would be that he would be shot. This scene likewise end=
=ed without bloodshed, by an order requiring him to go down between decks; which also was instantly complied with. The captain then had the hatches put on and fastened down; and, after seeing that both the forecastle and cabin bulk-heads were nailed up as tight as possi=
=ble, retired to his berth; leaving the most peremp-
-tory order that nothing should be opened until he should give the word.

The mate had been hard at work all day, and had sat up late. He was very much fa=
=tigued, and sought rest upon the boards. But he found that he could not lie down. When he tried it, the sweat poured down his face, and a sense of suffo=

=cation came over him. Gasping for air, he found a crack in the cabin bulk-head; and at this he stood all night. In the morning, hearing the captain leave the vessel, he called to the second mate, (Chauncey Fitch, whom he represented as a "very nice young man") begging him to open the cabin door, that he might have some air. The reply was, that he did not dare to do so, for it was against the captain's positive orders. The captain returned to the Brig; and, at seven o'clock, (owing to the necessity of their resuming the discharge of cargo) the hatches were taken off. The Captain went on shore again; and Bell, availing himself of his absence, came up= =on deck and hailed another American vessel ly= =ing near, begging them to send him a boat. This was done; and having thus obtained an escape from his prison, he got conveyed to Casa Blanca, (a suburb of Havana, on the opposite side of the bay) where he took a ferry boat for the City, upon landing at which he proceeded straight to the Consulate.

When he first presented himself there, the Consul was engaged; and his assistant in the outer office of the Consulate, having appointed a later hour of the day for an interview with him, informed him of the outrage which the

man complained of.

Before that hour came, captain Wendell stalked into the Consul's office, took up a chair, and planting it down in a very emphatic manner at the edge of the desk where the Consul was writing, seated himself and said, 'my mate has been to see you, I hear!" The following dialogue then ensued.

Consul. Yes, Sir.

Captain Wendell. Well, what has he to say for himself?

Consul. That you were about to shoot him last night, because he would not consent to be ironed; and then fastened him down under the hatches, where he was kept without a breath of fresh air, until long after sunrise this morning.

Captain Wendell. Well? Sir.

Consul. This is conduct in which no American ship-master shall receive any countenance from me.

Captain Wendell. (Raising his voice) What am I to do, Sir, with a refractory man?

Consul. Plenty of means, Sir, to controul refractory men, in a proper manner. There is no lack of soldiers here, they are all around you, ten thousand or so; and a word to the Captain of the Port would have brought you any number the case might call for.

Captain Wendell. (Raising his voice still higher, and in the most imperious manner) And what, Sir, is to become of my ship in the mean while?

Consul. If this is the tone, Sir, in which you propose to hold the conversation, I will have no more with you.

Captain Wendell. Very well, Sir, I will go and see my consignees.

Saying which, he jumped up and walked away, talking loud as he went.

At the appointed hour, the mate called; and after listening to his story, and putting such questions as it suggested, (the principal incidents of which were at the moment, committed to writing in the consul's memorandums book, where they occupy two pages of foolscap paper,) the Consul told him that his dread of the captain (which was still great, lest he should procure his arrest, and wreak his vengeance upon him for having dared to come to the Consulate) might be dismissed; that he should for the moment be taken under his protection; and might rely, should his story prove true, upon being released from the vessel.

Besides the particulars connected with

with the outrage he had suffered, the mate stated the voyage for which he had shipped; (c) and his belief that this did not authorise the captain to bring the brig to the port of Havana, and that consequently the shipping articles were no longer binding upon him. Upon this ground, if it should prove sufficient, he wished to obtain his release from her. He was sorry to lose his situation: he had accepted it at New York, with a full knowledge of Wendell's character, (or rather, of what it had formerly been: for he was told that he had become less outrageous) because he was out of employ, and it was necessary he should do something for the support of his wife and children no less than himself; and the same reason still existed to forbid his relinquishing it. But, after such treatment, and the character manifested by captain Wendell, he was thoroughly satisfied that it was as much as his life was worth to attempt to sail with him, and he had made up his mind not to do so. All he wanted, however, was, to get his

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(c) This, as stated by him, agreed word for word, with the shipping articles, from which the voyage, as quoted at the beginning of this statement, was copied.

discharge and his clothes. For the sake of peace, and to avoid contention and loss of time, he was willing to take them, and sacrifice any wages that might be due; postponing all demand of redress for the wrong he had suffered at the captain's hands until it might be made in our own country. (d)

Although satisfied that the captain richly deserved punishment, and that to allow him to escape so cheap would be to add another to the long catalogue of encouragements to such atrocious misdeeds, with which the history of the American flag in the harbour of Havana was replete, the Consul, partly through the expectation for some time entertained by him that he would before long succeed in having the whole subject so acted upon by the Government of the United States as to provide general and all-pervading safe=guards against such enormities; partly

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(d) Besides the particulars relating to the points above noticed, there were a number of others connected with the manner in which Bell had become separated from the brig at Matanzas. He had a sister living near that place; and, as an inducement to him to ship, Wendell had promised that he should, while the brig would be laying at that port, have an opportunity to visit her.

through consideration for the momentary con=
=venience of the individual parties concerned
in the case, and also of the authorities of the
country, determined to limit his action up=
=on it, if possible, in a mode correspondent
with the wish expressed by the mate. He
accordingly addressed to Captain
Wendell a letter, which, as it's substance

On the afternoon of the 4th of July, whilst on shore, Wendell told him that he had determined to sail at day break the next morning for Havana. Bell reminded him of his promise, and said that he could not think of leaving the country with=
=out seeing his sister. Wendell exhibited a great deal of ill humour on the occasion, and said, he could not go, for it would be impossible for him to be back in time: but Bell said that he must pay the visit, although he should be compelled to ride all night, going and coming, for the sake of merely seeing his sister for a few moments. Wendell, finding him determined, took charge of an ounce (a gold piece of $17.) which Bell had about him, and did not wish to take on his night journey; and they parted in presence of a num=
=ber of ship-masters: Wendell saying that he would not wait a minute for him if he should not be on board by dawn; and Bell determining to be on

cannot well be condensed into a smaller space, will be given at length.

Consulate of the U. S. of A.
Havana July 12 "38.

Captain Abraham Wendell
Brig Kremlin of New York

Sir.

William Bell, the first mate of your vessel, has represented to me that, last night, between the hours of eleven and twelve, he experienced from you personal violence of a very outrageous character, which was followed by threats to shoot him, and then, by the barbarous ill-usage of nailing him down under the hatches, where he was kept by your positive orders, repeated

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board if it should prove possible, and if not, then to follow to Havana in the first steamer. He got back too late to overtake the brig before she got out of Matanzas bay; and followed in the steamer. This is the ground upon which Wendell, at a subsequent stage of the case, (when his headlong course had involved him in inextricable difficulties) endeavoured to get up a charge against Bell, of criminal "desertion"!

repeated this morning, without fresh air until seven o'clock A. M. – He has further represented that the contract entered into by him is one which does not authorize your detaining him on board, and that he is determined not to return to the vessel: a determination in which he will be supported by me, should your conduct towards him be proved on investigation to have been at all of the character represented.

This investigation he has no desire to press for in this country. But he does insist upon his discharge, under the shipping contract.

I have to request, therefore, that to-morrow, between the hours of 10 A. M. and 1 P. M. you will bring or send to this consulate, for my inspection, the shipping articles of your vessel; and that if he be entitled to his discharge, you be then prepared to settle with him, pay him his wages, and deliver ~~him~~ his effects. Should you fail to comply with this request, it will become my unpleasant duty to proceed forthwith to lay this man's case before the Captain General, and to do all in my power, not only for the protection of his rights in future, but to have justice done him for the outrages which he alleges to have suffered.

I am, Sir, very respy:

Your Obt. Sevt.

(Signed) N. P. Trist.

This letter was delivered to Captain Wendell early in the morning of the 13th. That day, however, passed over, without any tidings from him. On the subsequent day, after the Consul had written to the consignees of the Kremlin, the letter below, (c) but before its delivery, Captain Wendell made his appearance at the Consulate, accompanied by Captain Leighton of the brig ~~Pl~~ Angeline, and bringing with him the shipping contract. After stating, in regard to the hour at which

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(c) Consulate of the U. S. of A.

Havana, July 14. 38

Messrs. Deconinck & Spalding

Consignees of the Brig Kremlin of New York.

Gentlemen

As you may possibly have some influence over the Master of the Brig Kremlin, (although, from what I learn from various sources, of his general habits and deportment, since his arrival here, I deem this very doubtful,) I would ask the favour of you, to use any that you may have, to induce him to conform to a request from me,

the Consuls letter had come to hand on the preceding day, two minuths, (of which he chanced to be convicted on the spot by the testimony of his own witness, captain Leighton,) - as the reason for his not having paid any regard to it, he produced the contract; and this proving to be exactly what the mate had represented, the Consul told him that the man was entitled to his discharge, and he would be so kind as to give it.

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made by letter on the day before yesterday, in consequence of the demand by his first mate to be discharged; which request was, that he would, on yesterday, between the hours of 10. A.M. and 1. P.M. bring or send his shipping articles to this Consulate for my inspection.

To this, he has paid no sort of attention; and, but for the excuse, bad as that is, afforded by his alleged habits of intemperance, I should proceed forthwith to lay the Mate's case before the Captain General, as the Master was warned that I would, in the event of his non-compliance, be under the necessity of doing.

Regard for the character of our flag, and also the wish to spare the individual in question the disgrace and expense which would attend the proceedings that would ensue, have induced ~~xxx~~ in me a determination to postpone any further steps in the matter until one o'clock on monday next, the 16. inst.

I am gentlemen, very respy: Your Obt. Servt.

(Signed) N. P. Trist.

Thereupon, Captain Wendell contended that his having brought the brig from Matanzas to Havana could not be considered a deviation; and, having exhausted himself upon that topic, said that he had a charge to bring against the mate. He had been guilty of mutiny, in refusing to obey his order to go into the forecastle; and for this reason he had threatened to shoot him. Upon being reminded by the Consul of his having admitted, the morning after the occurrence, that his reason for making this threat was, that he would not consent to be ironed, he shifted his ground, and contended that he had a right to iron him, - Judge Story had decided that he had a right to iron his mate, in a case to which himself had been a party. To this, the Consul replied, that he had a right to shoot him, too, for good and sufficient cause, and where the circumstances were such as to require a resort to such extremities. But it was altogether useless to enter into these discussions, inasmuch as they had nothing to do with the ground upon which the mate's discharge was demanded; which was, simply and solely, that, by the articles, he was not bound to the vessel.

After

After consuming more time in angry vociferation, Captain Wendell, finding it to no purpose, subsided into a qualified acquiescence in the Consuls' demand, by saying, "You are not going to demand the three months' extra wages?" to which the Consul replied that the discharge was demanded according to law, and the law required the extra wages to be paid.

This produced a new explosion of captain Wendell's fury, which burned the more fiercely from the vivid consciousness thus awakened in him, of the pecuniary accountability towards his owners, which his reckless course had brought upon him. He said he had no money of theirs "to throw away," that he would not pay any extra wages, and raved on in this strain until his reservoir was exhausted. The Consul then informed him that he had his (the Consuls) letter, and he might pursue such course as he saw fit; but he must do so under the assurance that on the Consuls part, there would not be a hair's breadth deviation from that which he had laid down for himself. Hereupon, captain Wendell again gave way, by saying, that if the Consul would of-

tain the consent of the consignees of the brig to the payment of the extra wages, he would make it. This was a stratagem, having manifestly two objects in view: the first, to shift from his own shoulders upon those of the Consul and consignees, the pecuniary accountability towards the owners which had such terrors for him; the second, to enable him to make proclamation, for the benefit of all ship-masters of his own stamp, that he had defied the con=sul and compelled him to fall back upon the consignees, and the only thing requisite to drive him from his pretension to interfere on occasions of the sort was, firmly to maintain a bullying deportment and enforce it's efficacy (as was done in this case) by threats to make abandon=ment of the vessel, and throw her upon the con=sul's hands, should he persist in such auda=cious usurpation. The Consul therefore said that he would not have a word to say with the consignees, or any one else, upon the subject; that captain Wendell might consult them or whomsoever he pleased, and should have all the time for deliberation that he might wish; but the Consul's duty lay with the master of the brig Kremlin, and with him alone

would he have any thing to do in the matter.
Upon receiving this reply captain Wendell took his
leave, in a style that allowed but little room for
a hope of his following the good advice, which
the character of his consignees, (one of the very
first houses at Havana, successors of the well
known American firm of Scull, Storey & Co.)
and particularly of Mr. Edward Spalding of
Connecticut, the partner who had the manage
-ment of the business of the Kremlin, afforded
assurance of. That advice was given. Captain
Wendell was urged to comply with the requir
-ment of the consul; and, if he deemed this un
-lawful, to yield to it under protest, in order
that redress might be sought at home. This,
~~on~~ his own account, and for the sake of the
interests of his owners, and by every consideration
which could influence a man's course on
such an occasion, he was urged to do by the
advisers to whose guidance his owners had ex
-pressly consigned him. But, other counsel pre
-vailed. He was immediately seized upon
by a few miserable men, of utterly blasted char
-acter, (whose notoriety had become fully es-
-tablished long before the consul had first gone to
Havana) who had made public boast of

their determination to glut their vengeance by getting him removed from office; and of these men he became, openly to all eyes, the blind, though not unwilling, tool. Under their pilotage, his course was steered, in the obvious design, and for the sole purpose, that it should present to the consul the alternative, in a case presenting the strongest possible claim to the faithful and firm discharge of his duty, of a dastardly surrender at the dictation of an infuriated bully, or of affording to them the vast advantage to result from the clamor which they knew could be easily raised upon the imprisonment of an american ship-master.

Four days after this interview the consul, in pursuance of the course which captain Wendell had been fully apprized of his determination to adopt, addressed to the Captain General (f.) a letter stating the

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(f.) The Captain General is, ex officio, the protector of strangers. He is also the sole Judge of the Military Tribunal, as that court is called, wherein all military persons have the right to sue and be sued, to prosecute and be prosecuted. This, (as might readily be supposed considering that the government is a military despotism) is one of

the mate's complaint, the fact that the ship=ping contract had been inspected and found to be such as, under American law, to entitle him to his discharge, the demand made for that discharge, and the refusal of the master to com=ply therewith. That letter closes as follows:

"This requirement from me, the said master refuses to comply with; and, after keep=ing the matter in suspense several days, in order to allow him time for sober reflection, and in the hope that if this could not bring him to reason, such an effect might result from the ad=vice given him by his respectable consignees in this city, Mess^rs Delmonick and Spalding; I am now placed under the necessity of having recourse to your Excellency with the request, that,

"1st: The said captain be forthwith com=

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is one of the most highly prized of all the "fueros," or priv=ileges, which a subject of Spain can possibly possess. By a strange inconsistency with the general policy of the government towards foreigners, this highly prized privilege is extended to them. They enjoy the right to appeal for justice to that tribunal in which the risk of delay and of wrong in other shapes is least.

=pelled to comply with my requirement in favor of his said first mate, by immediately giving him his discharge in my presence: paying his wages into my hands, as required by the laws of the United States, and delivering his clothes and effects: so that he may be enabled to proceed without de=lay on a voyage in another american vessel where he has an opportunity of employment (g.)

"2nd: That Your Excellency be pleased to order such proceeding in reference to the said captain as may be deemed proper, upon the com=plaint of the said William Bell, his first mate, for the alleged outrages committed upon his person while under the protection of the laws of this country.

"The said captain has been warned of

(g.) This has reference to a subject upon which arose one of a number of episodes ~~in this~~ furnished by the case. It's outline is as follows: The ship Romulus of Portland, Webster, master, was then in port, taking in a valuable cargo of sugars for Rotterdam, the insurance upon which required that she should be at sea before the first of August. Such cap=tain Webster, Bell found an old and friendly acquaintance, who, hearing that he was in diffi=

my determination, should he place me under the necessity of troubling Y.E. on this subject at all, to lay the whole case before you; and that proceedings against him on the part of the authorities would be the consequence."

=culty, and had been taken under the protection of the Consul, invited him to come and stay on board the Romulus. This ship had lost her mate, and her master visited the Consul to enquire if there would be an im=propriety in Bell's discharging the duties of that post while she was taking in cargo, and to say, fur=ther, that he would be very glad to engage his services permanently. He had long known him, and entertain=ed a high opinion of him; and it was of the utmost im=portance both to his own comfort and to the safety of the ship and cargo, that he should not be compelled to undertake the voyage without a good mate on board; which probably would happen unless he ob=tained Bell. The consul informed them both, that Bell might consider himself free from the Kremlin, and might act as a freeman; that he did not see reason to apprehend that he could be detained by any thing arising out of his case, later than the time fixed for the ship's departure; and that they might count upon his (the Consul's) doing all that

This letter is seen to present two distinct points for the action of the tribunal where-

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might be in his power to prevent such detention.

The reception of Bell on board the Romulus (where, for some days, he was very unwell in consequence of the treatment he had undergone) rendered Wendell more outrageous than ever. He sought every opportunity to insult Captain Webster by the most opprobrious language, for "harbouring his deserter," as he termed it; and made a spectacle of himself by frantic vows of vengeance against both these culprits as well as the Consul. By bringing against Bell (on grounds which every one knew to be utterly preposterous) a formal accusation, wherein he was charged with desertion and mutiny, he created a necessity that his victim should be required by the authorities to remain in the country. And thus was this poor mariner compelled to see the ship, in which he was provided with so good a berth, depart without him: her captain subjected to the hardships of making a voyage across the atlantic without a mate; and all persons interested in in the safety of vessel and cargo, to the serious risk inseparable from that deficiency!

One incident will be added to the foregoing.

On making

=of the Captain General is the Judge: In the present account of those proceedings that distinction will be preserved.

1st: Point: the discharge of the Mate. On the 19th of July, the Captain General decreed that the Master of the Kremlin should be compelled to give to his mate his discharge before the Consul, "paying his wages and delivering his clothes and effects, to the end that he may return to the United States;" which decree, the Captain of the Port was instructed to see fulfilled.

On the 20th, the Consul received a commu-

On making his escape from the Kremlin, Bell was clad in a woollen suit. He repeatedly represented that he was suffering (the time July, under the tropic) for want of lighter clothing and the means of changing his under garments. But the captain chose to detain all his clothes; and this, notwithstanding the peremptory decree, twice given by the judicial authority of the country, was persisted in. It was not until Bell had been kept in that situation sixteen days, that he obtained possession of his clothes; and then only in consequence of a demand from the Consul upon the Captain of the Port, that the second mate (at that time in charge of the vessel) should be com

=nication from the Captain General, acquainting him with that decree, and that he should be opportunely advised of the determination in regard to the proceeding which ought to be had against the master. On the same day he received from the Captain of the Port a letter acquainting him with that decree, and that, to the end that it might be fulfilled, the master and mate would be made to appear at the Consulate. It concluded with the request that the Consul would communicate to him that the decree had been complied with, in order that he might report accordingly.

With this letter, the Captain of the Port sent up the master and mate. For the purpose of ascertaining, in the way that is invariably practised when the discharge of a Mariner takes place, the rate of wages which constitutes the basis of the settlement and of the account which the Consul is obliged by law to render to the government, the Consul observed to captain Wendell, "you will now, Sir, have the goodness to produce the shipping articles." The words were scarcely

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=pulled to deliver them in spite of Captain Wendell's orders to the contrary.

uttered, when the captain broke out in the most angry and bullying tone, "I will do no such thing. I pay no extra wages, the Captain General's order says nothing about extra wages." In reply to this he was informed that the Captain General's decree was based upon the application made by the Consul, asking that he should be compelled to give the dis-charge according to the laws of the United States. This, the Consul now demanded of him to do; and if he refused compliance, the consul would be under the necessity of report-ing such refusal. His bullying tone and bear-ing had but increased; his ~~deport~~ deportment in every respect X making it manifest that he was determined upon driving the Consul from his course. He re-plied that he did not care, the Consul might do as he pleased, he would pay no extra wages. (h.) Whereupon, the Consul, telling him that

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(h.) The positions of the Consul and the Captain in regard to this subject were radically different. The requirement of the extra wages was imperative up-on the Consul. He was compelled by law to make it. His fidelity to that law (which he was known to con-sider a detestable one) was, notoriously, the sole

their business was at an end for the present, wrote to the Captain of the Port the following letter:

"I regret to be under the necessity of informing you that Captain Abraham Wendell, under the pretext that ~~he~~ he understands the order of H. E. the Captain General in a different sense from that in

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ground of a great portion of the enmities he had excited. The captain's pertinacity on the subject was known to be through sheer wantonness; to have no other object than to force upon the Consul the alternative of being driven from his course, (which Wendell's instigators knew to be an impossibility) or ~~X~~ affording the ardently desired ground for clamour, that the Consul had thrown an American ship-master into jail. Besides being urged by his proper advisers, the consignees, to pay the extra wages, he had been entreated by Captain Webster, on behalf of the mate, to pursue that course. Two thirds of these extra wages would have been paid by the Consul to the mate; who, to have the matter settled without contention and to avoid detention and the loss of the good berth that awaited him in the Romulus, proffered, not only to refund his share of the extra wages, but to abandon also the balance otherwise due to him. This, Captain Webster pledged himself to see fulfilled.

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in which I do, refuses positively to comply with the first requirement which I make of him under that order; which requirement is, that the said captain shall produce to me the shipping articles or contract, in order that the discharge of the first mate may take place in conformity with the laws of the United States which govern the subject."

This being reported forthwith to the Captain General, that magistrate refer=red the subject to the highest law-adviser of the tribunal; and in pursuance of the opinion and advice given by him, a second decree, was, on the 24th of July, issued, to the effect that the first must be fulfilled, and captain Wendell be committed to prison if he should persist in setting it at defiance. This also, the Captain of the Port was charged with carry=ing into effect. It was by him communicat=ed to the Consul, and made known to cap=tain Wendell; and the morning of the 26th was appointed for the appearance of the latter at the Consulate.

Chiefly for the purpose of sparing cap=tain Wendell's feelings and avoiding the risk of such an explosion from him as would

create a necessity for a resort to the authorities to protect his office from gross outrage, the Consul determined that the Captain should not be subjected to the humiliation of being brought, as a prisoner, before him, (against whom his wrath was unbounded, notwithstanding its free and undisturbed outpouring, by day and by night, on land and on ship-board, in coffee houses and on the quay) but that this last interview should take place with W. Smith, the Vice-consul. Nothing had occurred to direct the captain's rage against him; he was an old, infirm, man, with a head as white almost as snow, proverbial for the sweetness and evenness of his temper, for his obliging disposition and his conciliatory manner, and known to every one to have been himself a ship-master, who could, and did thoroughly understand the nature of the position, appreciate its difficulties and trials, and view the consequences with the most charitable eye. If there was any hope that captain Wendell could be brought to his senses, it must consist in having him dealt with by such a character.

Upon captain Wendell's making his appearance, M. Smith invited him to

a seat, and then expressed his hope that he had come to give the discharge and pay the wages. The reply was, "No I wont; you may send me to jail if you have a mind to." (i.) Whereupon, remarking that he must do his duty, the Vice-Consul directed the clerk of the Consulate to go inform the Captain of the Port of this result; and as he departed on this errand, Captain Wendell also left the office, attended by the man in whose custody he had been sent up, and who, as Wendell had been informed, was the bearer of an order for his imprisonment in the event of his persisting in his refusal to comply with the decree. Through consideration for his being

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(i.) His deportment satisfied M. Smith that he decidedly wished to be committed to jail. Indeed, to get him there, was manifestly the upshot of the game wherein, very soon after the inception of the business, he had become a mere puppet.

No sooner had the key been turned upon him, than a shout of victory arose. The Consul's doom was irrevocably sealed! And this glorious consummation was immediately celebrated within the prison walls by a grand carouse,

a foreigner and a ship-master, the Captain of the Port (himself a Post captain in the Navy, and a frank, generous tar) had, as he stated in a note to the Consul, for the purpose of sparing Wendell's feelings and to avoid the scandal of having an american captain marched through the streets under an armed guard, (as a spaniard would have been under like circumstances) taken upon himself the responsibility of sending him up, in the custody of this man, a confidential orderly, without even his sword by his side. Having made his election to go to jail, common decency would have required, under any circumstances, that he should do so like a man; and this, was rendered the more imperative by the extreme delicacy shewn towards him. So far, however, from evincing a proper sense of what became him, he behaved on this occasion as he had, and subsequently did, upon all others; that is, like a man beside himself through a furious temper, rendered worse by the

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whereat every man was welcome who would go and drink to his perdition; and which was kept up, so long as the fund, raised by appeals to the generosity and patriotism of American strangers for the succour of the unfortunate wife and daughters of this victim of Consular tyranny, kept pace with the consumption of champaign and cold viands.

=the liquor-flame with which his blood was satu=
=rated. Whether it was, that his condition of mind
was such as to preclude the possibility of his acting
upon any subject with decent consistency, or that
he was instigated to make a spectacle of himself
in the streets, in order that the desired effect from
his imprisonment might be the more striking,
it so happened that after abusing in every way the
disposition of the man in whose custody he was, to
treat him with all possible delicacy, he created an
absolute necessity for his actually laying hands
upon him in the most publicly frequented and
crowded spot in the city.

2nd Point: Penal proceeding against Captain Wendell for the outrage upon his mate. In this branch of the case, the Consul took no active part whatever. The subject belonged exclusively to the au=thorities of the country, and to them it was left. With one single exception, (j.) he took no part in the proceeding, directly or indirectly, other than

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(j.) The only deviation from this course on the part of the Consul consisted in his addressing, on the 28th of July, a letter to the Captain General, under the following

that of replying to a number of calls, officially made upon him by the Judicial Officers charged with the preparation of the case for the action of the tribunal, to procure the attendance of witnesses, who were almost exclusively American ship-masters or sailors; and of replying to other calls from the same quarter for information in regard to the points of American law involved in the proceedings.

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circumstances: He had learnt from Bell (probably from others also) that Wendell and his instigators had been boasting of, and threatening him with, the effect to be produced by a memorial addressed to the Captain General, full of malicious inventions in regard to Bell's character and conduct, and asking that he (Wendell) might be allowed to have Bell arrested as a deserter and kept in prison until the Kremlin should be ready for sea, then to be delivered up to him; and asking further, that any person or persons (understood to be particularly intended for the Consul and for Captain Webster of the Romulus) who should be proved to have protected Bell, should be brought to punishment! In consequence of this intelligence, and to quiet Bell's apprehensions of foul play, the Consul wrote to the Captain General, com-

Excepting that imparted to him by these communications, (and also one requesting him to see that the mates and sailors of the Kremlin did not leave the place until their attendance should be dispensed with) the Consul possessed no knowledge whatever of the proceedings that were going on, nor of the incidents that arose in their course. It was never a topic of enquiry even from him; and although a subject of such general talk and report (particularly in regard to Wendell's persistance in his semi-frantic defiance of law and common decency) that he could not avoid hearing it talked of, the only idea he had of the state of the case at any time was that afforded by these indications that it was still going on. He seldom, indeed, saw the Captain General, (and he not unfrequently visited him for the express purpose) without reminding him of the grievous detention which the

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municating the names of four Witnesses (three American ship-masters, and one American resident of the place) whose testimony might be taken upon the points presented by this calumnious memorial. Two of these had long known Bell, and three of them were reported to have heard from Wendell's own lips, on his arrival, statements conflicting with the inventions to which he had now resorted.

whole crew were experiencing, and requesting that, on their account if no others, the case might be expedited as far as possible.

Early in December, the Consul received a communication on the subject from the Secretary of State at Washington, enclosing copy of a letter addressed to him by Mrs Wendell, at New York, showing that that lady had been im=posed upon by some writers at Havana by the most preposterous inventions. That letter was car=ried by him to the Captain General, and a portion of it read to him, as an inducement to hasten the proceedings of the tribunal, and to letting the offender off without further punishment than the imprisonment he had suffered. Although, judged by the standard of any civilized country, it could not but be deemed altogether inadequate to the magnitude of the barbarity suffered by the mate, yet the Consul entertained no doubt that, as an example and a warning, (the only legitimate end of punishment) it had already had all the effect that could be desired; and this opinion was expressed to the Captain General. He promised to give his attention to the subject; and upon the Consul's next visit, which took place shortly after, he was informed that the

record

record was in the hands of Wendell's attorney, and that the case would be proceeded in with the least possible delay. Shortly after, the Consul learnt that he was out of prison; (K.) and took for granted that this was in consequence of the case having been brought to its termination: a supposition which was confirmed by the fact of Wendell's departure for the United States after devoting a few weeks at Havana to un-regarded machinations against the Consul, and remained in force many months, when the latter chanced to learn that the case was still pending; and that Wendell had been re-leased only under a process whereby a culprit ~~[illegible]~~ under trial, who declares and proves him-self a ~~pauper~~ to be a pauper, can obtain his re-

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(K.) His release took place on the 20th of December. Commander Babbit of the U. S. Sloop of War Boston did not commence his interference in any of the cases pending at Havana, until during his visit to that port, com-mencing on the 5th of January following. And yet, in the newspaper publications made through the instru-mentality of Captain Wendell and his friends, he is represented as having been thrown by the Consul into prison, and to have lain there until released only at the interference of Commander Babbit!

release by making oath that he will return to prison whenever he shall be summoned, under pain of the penalty for perjury. He had given as bail (a purely nominal one) the keeper of a grog-shop in the neighbourhood of the prison; who, in the streit wherein he found himself, abandoned by his instigators Clark and Burnstead, (in the pecuniary sense, mew of substance) was the only person he could get.

N. P. Will.

Appendix

To the statement of the case of the Brig Kremlin of New York.

The record of the Judicial proceedings at Havana in this case having been transmitted by the Captain General of the Island of Cuba to the President of the United States (a) the following documents have been translated therefrom, as an appendix to the part of the foregoing statement relative to the criminal prosecution instituted against Wendell for the outrage upon his mate. [It is to be remarked that under the Spanish law, all testimony is immediately committed to writing; and that each witness is examined separately, and in the strictest privacy, and his testimony remains undisclosed until

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(a) This transmission took place in pursuance of a Royal order from Madrid, of the 26th March 1839, requiring that all prosecutions for offences committed on board of vessels in port, occurring between persons

the proceedings reach the stage at which they all become public. It is to be further remarked, that all the American testimony contained in the present record labours under the disadvantage of having been given in english, and written down in Spanish from the lips of an interpreter. One inevitable consequence of such proceeding is, that however competent and faithful the interpre=ter may be, the testimony as written down, is neither as full nor as precise as it is, coming from the lips of the witness. Ignorant of the case, the interpreter cannot be expected either to seize the precise import of what he hears, nor to a=void the error of supposing that a part of it is tautologous or superfluous, and may ad=vantageously be condensed or omitted. Even without making any allowance for indolence or carelessness in the interpreter, this danger must necessarily exist in a degree exactly proportionate to that wherein his knowledge of either language falls short of absolute perfection. It is evident, that in the present

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belonging to said vessels, should be remitted to the Government of the United States for its action thereone.

case the testimony of the American witnesses, retranslated into english, can scarcely fail to be both meagre and inaccurate, as compared with what came from them; and consequently that when compared together discrepancies are quite likely to appear, which originated solely with the interpreters.]

Extracts from the Record.

Extract No. 1.

Affidavit of Chauncey Fitch, second mate of the Brig Kremlin [Examined July 26. 1838]

Being questioned whether, from meridian on the 11th. inst: [July 1838] until 8 o'clock on the following morning, he was on board his vessel, and witnessed various occurrences which then took place between her captain and her first mate; and being desired to recount the same circumstantially, and state the names of both, with those of any other persons who might give an account thereof, Witness says, That during the hours named he was on board the brig, where the following occurred between the captain and the first mate: about

meridian the captain, Mr. Abraham Wendell, came
on board, and found the first mate Mr. William Bell,
taking account of the cargo which was discharging,
to whom as well as to witness he said they did not
mind him as they ought, to which Bell replied
that they had minded and respected him as
their captain, doing all that lay in their power or
duty to keep him always satisfied and pleased:
whereupon Wendell gave him the lie, saying it
was no such thing; and on the other's insisting
that their behaviours to him had been of that re-
spectful character, the captain got angry, cursed
him and called him a liar in presence of the
whole crew; whereupon the mate, in a mild
manner, begged that he would not insult him
before the sailors, to which the captain replied
that after dinner they would have a talk on the
subject, and the mate insisted that it should
be at once and in presence of those who had wit-
nessed the insult: to which the captain paid
no regards; but at dinner time, the captain ad-
dressing them both, said that they might quit
the vessel so soon as they saw fit, since they
did not choose to please him; to which neither
of them made any reply. The captain having
gone ashore, returned to the brig about eleven

o'clock

o'clock at night, at which hour witness was asleep. He was wakened by Wendell, who was bawling out you are a damned scoundrel, to which Bell replied by saying that he might himself be the scoundrel: whereupon the captain, seizing a stick which he had in the cabin, went up to where Bell was, and gave him a blow with the stick. Then Bell, rising from his berth, seized him by the arms to prevent him from continuing his ill-usage; whereupon the captain called to witness to come to his assistance, and witness, not choosing to take part in the fray, got up and went upon decks; whence, at Wendell's ordere, he returned to the cabin, carrying to him a pair of irons, and saw him in the act of loading a pair of pistols, with which, and with the irons, he followed Bell upon deck and threatened to fire them at him if he did not allow himself to be ironed; to which the mate replied that he would not allow them to be put ~~upon~~ him on, and that if the captain chose to punish him for faults which he had not committed, let him call to the Guard-ship which lay close by, and he would go to that or any other prison: all which he said in a mild manner. The captain then made him go into

the hold, which Bell did, saying that he obeyed him in that, as he had ever done; and there the captain left him confined, fastening down the hatches and nailing up the bulk heads; where he remained until next morning, when the captain took off the hatches; and as he afterwards went on shore, the mate seized that opportunity, and went to the City. What occurred in the cabin at night was seen only by witness, and by the stewards; but the occurrences of both mornings, and the threat with the pistols, were witnessed by the whole crew.

Being questioned, whether during that interval of time, or before, he has noticed in either of the two individuals intoxication from spirituous drinks. Witness says, that though he has seen both of them drink, they have never done so to excess; although, in the forenoon of the 11th, he heard a clerk who was on board taking account of cargo, that he was going away because the captain was so drunk that he could not be spoken with, which witness did not perceive to be the case.

Being questioned, whether he knows of there having been, before said occurrence, any acts of the same nature between the same individuals,

in which it might have originated, or which might have occasioned it, Witness says, that some years ago, the said captain and mate sail-ed together, and he has learnt that the latter did then quit the former, on account of some difference they had together; witness does not know the cause which may have existed at the present period for what has happened.

Being questioned, whether at the time of the occurrence the brig was moored to the wharf, or lay elsewhere in the immediate vicinity of vessels whose crews might have witnessed what happened; and if so, to name such vessels and individuals, Witness says, that the brig was anchored close to the Guard-ship, and also near to the American brigs Franklin and Angeline; but he does not know whether their crews will have heard any part of what occurred.

Extract No. 2

Affidavit of Chauncey Fitch, second mate of the Brig Kremlin. [Examined August 1. 1838]

Being questioned, whether on the morning of the 12th. of July, the first mate called to him from the

place where he was confined, and entreated that he would let him have a little fresh air; and to say whether he complied with said entreaty, and if not, to give his reason for not doing so; Witness says, that in effect, the first mate being in said place, begged him to open the hatches and let him have a little fresh air, which he did not do, although he wished to do it, because he could not disobey the order which he had received from the captain, which was, that he must not open until his return from shore where he had gone.

[Upwards of twenty four other witnesses were examined, chiefly captains, mates and seamen of American vessels, embracing the entire crew of the Kremlin. Their testimony varies in circumstantiality. With two or three very unimportant exceptions, it all goes directly to corroborate the statement of the first mate, and to disprove all the allegations of Wendell, whether apologetic, or accusatory against the mate.]

~~Extract No. 4~~ Ex=

Extract No. 3.

Proceedings of August 1. 1838

The Fiscal then addressed two official letters: the one to the Consul General of the United States, in order that at 4 P.M. this day, Mr. William Bell, the first mate, present himself at the Fiscal's; and the other, to the President of the superior Board of Medicine and Surgery, in order that at the same time and place two of the Faculty shall appeare to accompany him on board the Brig Kremlin, and there make the requisite examination of the place where the said mate was confined by his captain on the night of the 18th: of July last. Which official letters, I, the Clerk, have delivered to the said persons; in proof whereof it is entered upon this record, and signed by said Fiscal.

Extract No. 4.

At the same Place Havana, on the same day, month and yeare, in consequence of the letters addressed to the Consul of the United States of America and to the President of the Board of Medicine

and Surgery, appeared the first mate, W. William Bell, and the two members of the Faculty, Don José Maria Camiller and Don Rafael Cortes; accompanied by whom and by the Interpreter and by me, the Clerk, the Fiscal proceeded on board the American Brig Kremlin, in order to make the requisite examination of the place, wherein, as appears from the official letter of the said Consul (folio 75) ratified by the second affidavit of the said Bell, (folio 79) this person was shut up, with risk of his life, by the captain, W. Abraham Wendell. Being on board the said vessel, and in the said place, (which was pointed out by Bell,) the second mate, Chauncey Fitch, on being required to do so by the Fiscal, through the Interpreter, closed the hatches and bulkheads, leaving them in the state in which they were placed by the said Wendell on the night when he shut up Bell there. After which the Fiscal asked the first of said Doctors, & both having been duly sworn & whether, taking into consideration the capacity of the hold of the vessel, the season, and the degree of heat now prevailing, a man could remain confined

there for the space of eight hours, breathing only through a crack in the bulkhead, such as that which they saw, without risk of his life from suffocation; and the said Doctor replied, that his life would not be endangered so long as the confinement should last less than twelve or fourteen hours; inasmuch as the column of air that entered by the crevice which is perceivable in the upper part of the bulkhead aft, renewed the impure air which was respired, by allowing entrance to at least seventy five inches of respirable aire, which, by calculation in Physics suffices to sustain life for near twenty four hours; but that considering the narrowness of the place, the various bituminous ingredients breathed there, and the excessive heat which reigns in the tropics, acting upon a robust and plethoric man, accustomed to breathing the pure airs of the sea, this confinement might have been attended with dangerous consequences & literally, detriment in the way of danger & to his health; for he doubtless must have suffered much during the time that he was shut up, and might have come out in a state of semi-as-

=physcia. And the second Doctor being also questioned, answered in the same terms as the first. All which they affirmed and ratified under oath; and this was signed by the Fiscal, the Doctors, Interpreter, Mate and myself the Clerk.

Extract No. 5.

[Report, made to the Captain General, as Judge of the tribunal, by the Juez Fiscal, [often called for brevity, though incorrectly, Fiscal merely] the officer whose functions consist in the taking of testimony and collecting of other matter of proof; which being done, the testimony is presented to the Court, accompanied by his report on the subject.] .

This case has arisen in consequence of the complaint made by Mr. William Bell, first mate of the American Brig Kreinlin, against M. Abraham Wendell, master of said vessel, [upon which subject the Consul of said Nation addressed to Your Excellency an official letter containing a minute statement of the ill treatment and personal violence committed by said captain upon his mate]

and

and in consequence also of the offence com-
-mitted by him in refusing obedience to the
order of Your Excellency, made known to
him by the Captain of the Port, requiring
that he should without delay, discharge his
mate before the Consul, and pay through
the same channel the wages due him,
and deliver his clothes.

It would be imposing too much on the
overburthened attention of Y. E. to present in
minute detail all that has been done to make
clear, not only the scandalous proceeding of
captain Wendell in the violence so unjustly
committed upon his mate, Bell, but also
his audacity in most obstinately refusing to
obey Your Excellency's decree; for which he was
committed to the public jail.

Nothing has been omitted to arrive
at the truth in regards to the particulars
embraced in the letter of the Consul 2 folio 8 &c.
and the testimony of the large number of wit-
-nesses who have been examined goes to es-
-tablish most fully the criminal conduct
of said captain, in committing without any
cause whatever the acts complained of by
the person whom he so violently outraged,

even to the extreme of insisting upon putting him in irons, threatening him with a pair of pistols loaded with ball, if he did not submit to the humiliation of so degrad=ing an outrage; and finding that this pur=pose could not be accomplished, he makes him go down into the hold, and, closing the hatches, he leaves him buried to suffer the consequences of such a confinement, where he had no free air to breathe, doubt=less in the iniquitous design to terminate his existence, which he did not venture to do in another way through fear of the publicity with which the criminal act would have been stamped.

This statement does in all respects accord with the conduct of which the accus=ed appears to have been guilty; and although captain Wendell, in his indicatory affidavit, has sought to clear himself by denying the points of the interrogatory, he has not been able to effect any thing, for he has presented no grounds or reasons which go to exculpate him from his misconduct, nor has he been able to invalidate the consistent averments maintained in the firmest manner by the

witnesses when separately confronted with him.

The only reason alleged by Wendell for his complaint of misconduct on the part of the mate has been the fault which he says was committed by him when the vessel lay at Matanzas, in absenting himself and not returning in time to come in the vessel to this port, which he afterwards did. But it is proven that if he absented himself, it was with his knowledge, and without his having had sufficient notice to be back; and it is also proven that instantly upon his arrival he resumed his duty on board, and the captain, so far from finding fault with him, received him very well; which goes to show that said mate had not committed any fault.

It further appears, that the captain's refusal to give the mate his discharge and pay his wages was a mere piece of obstinacy on his part in holding out against a compliance with the terms of the shipping contract; whereby, as it is not therein expressed that the vessel was to come to this Port, it appears that by the laws of the United States, this circumstance alone

annuls the contract, and the person bound thereby remains at full liberty to quit the vessel if he pleases.

For all these reasons, and the har=mony which the testimony exhibits upon the point that the excesses of the captain have been perpetrated without the mate's having given him the smallest cause for inflicting upon him not only the abuse of his person by word and deed, but the fur=ther injury to his good name and honorable conduct, the captain deserves severe punish=ment; and this, he does the more from his habit of giving himself up to drink, and the misconduct which inevitably results therefrom.

If Captain Wendell, complying with his duty, had obeyed Your Excellency's orders, giving fulfilment to what the Consul had cautioned him to do, he would have avoided the reaggravating part of his reprobate conduct; for if he conceived that requirement to be improper, he might have established his recourse by making the necessary protest.

Wherefore, it is my opinion

that

that he ought to receive the punishment which he has earned by his scandalous excesses and offences against the mate, William Bell; and that he be condemned to pay the costs occasioned by his misconduct, as is required by the Royal order of the 5th: of August 1838. Your Excellency will decide that which is most just. Havana, September 4. 1839.

Extract Nº 6.

1. Report of the Fiscal, or minister of the court whose functions consist in following up the proceedings in a criminal case, and in recommending to the Court at the proper time, all orders, decrees and other steps which strict conformity to law requires. This is the Fiscal properly speaking; and he must not be confounded with the Juez Fiscal, a totally different officer, whose functions are essentially distinct, and who, for brevity's sake, is frequently called Fiscal, in the proceedings to which he is a party. Among those conversant with judicial proceedings this occasions no confusion; but the caution

is necessary for those who are not.

The testimony having been all taken, and reported upon by the Juez Fiscal, the record, thus far completed, is delivered to the Court. It then constitutes the basis of further proceedings, which become successive = ly incorporated with it, until the case is finally disposed of. The first proceeding is the ~~decree~~ a decree of the Judge, refer = ring the case to his legal adviser. = Accord = = ing to that advice, the case is cut short, (by sentencing the accused in trivial misde = = meanors, or dismissing the prosecution) or carried on. In the latter case, the record goes alternately into the hands of the Prose = = cuting Attorney and the Traverser's counsel; receiving as it passes from one to the other, such action from the Court as becomes requi = = site from their respective pleadings, which are all in writing.

The second Fiscal ad interim has examined this record; wherein are fully established the acts whereof M. William Bell, first mate of the American Brig Frem = = lin accuses her captain, M. Abraham Wendell; and he considers the case ripe

for bringing the charges against the accused and taking his confession. Havana. 6th of October 1838.

[The proceeding here recommended consists in definitively framing the charges against the accused, and requiring him to plead to them. This, he does under oath, and it is called his confession.].

Extract No. 6.

The Fiscal says, that the charges and confession having been added to this record, the case ought to proceed on. He accuses, gravely and criminally, Mr. Abraham Wendell as the author of the injuries by word and deeds, which he did and put in execution against Mr. William Bell, mate of the Brig commanded by him. The concurrent and unvarying testimony of the crew of the vessel shows that twice, and at different hours, he repeated his insults, and that after various scandalous scenes, he concluded by arming himself with pistols and shutting him up under the hatches which were nailed down, after having attempted to put

him in irons. These acts being fully proved, and the said captain having also refused obe-dience to Your Excellency's decree, the Fiscal prays that, as the termination of this prosecu-tion, the said Wendell be sentenced to two years imprisonment at hard labour. Ha-vana 10th of November 1838.

Further, the Fiscal says, that captain Wendell has, in the Tribunal of Commerce, brought suit against Mess.rs Cruzat H.o; as consignees of the American Brig Kremlin, demanding the sum of six hundred dollars; and inasmuch as by reason of this prosecution he is subject to the civil responsibilities, the Fiscal prays that the Judges of that Tribunal be requested to retain at the disposal of this one, the said sum, in case their decision be favorable to Wendell's demande, or on whatever ground he may succeed in recovering the same; and that the said house of Cruzat H.o be in-formed of this attachment should it please Your Excellency to order the same. — Hava-nna, 10th of November 1838.

The

The remainder of the record consists of numerous pleadings of Wendell, and of the action of the Court and it's law-officers thereon. One of his objects being, to obtain a judgment of insolvency in his favor; another, to obtain his release from prison under a process whereby the accused, by swearing to return to prison whenever required ~~to do so to do~~ so to do, and subjecting himself to the penalties of perjury, is allowed his liberty on giving a nominal bail.

Both these objects were effected; the last named, on the 20th of December 1838.

The course which the main branch of the subject took will appeare from the following heads. (b.)

1. November 15. 1838. The Court decrees that the course of the case be not interrupted by collateral pleas put in by Wendell, and that he plead to the charges against him. —

(b.) It is to be remarked, that after remaining a few weeks at Havana, Wendell left there for the United States. The cause was, by his lawyer, vigorously pushed against the Consul; who, until the record came under his examination at Washington, in June 1840, never had the slight-

2. December 7. 1838. Wendell pleads to the charges. Asks sentence of acquital, and that the Consul who has maliciously involved him in all his difficulties, be condemned to pay all the costs of the prosecution, together with damag -es for his imprisonment.

3. January 9. 1839. Wendell memorialises. Sets forth that the Consul has maliciously accused him, and is answerable for the consequences; that said Consul is preparing to leave the country, the Government of the United States having removed him, and appointed another person in his place who will discharge the duties with great -er impartiality and less oppression; that if the Consul is allowed to depart, all the memori -alist's rights will be illusory and any condem -nation of the Consul ineffectual. Upon these grounds he prays, that the Consul be required to give security to answer all consequences of the judgment that may be obtained against him; and that, in the event of his failing, he

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-est suspicion of any such movement against him. He will add that no American resident at Havana would be at any loss to point out the persons by whom alone this lawyer's zeal could have been kept alive.

he be interdicted from leaving the country.

4. January 25. 1839. Fiscal represents that Wendell's memorial ought to be adjudged groundless. The Consul neither was, nor could be, the accusing party in the case. He made known to the Public Authorities the excesses which had been made known to him by the mate, William Bell; and in doing so, he fulfilled the duty incumbent upon him in his Consular capacity. Having proceed=ed thus, not only is he free from the respon=sibilities of an accuser or denouncer, but he is also exempt from the authority of our laws. The Fiscal prays judgment accordingly up=on this attempt to involve the Consul in the proceedings, and that the cause against Wendell be opened for proof.

5. February 1. 1839. Court decrees. Wendell's prayer against the Consul, groundless. Cause to be opened for proof. Fifteen or=dinary days (court days) allowed. Witnesses to be ~~ex~~ re-examined before the Auditor.

6. February 7. 1839. Memorial from Wendell, asking for review of the decree; ar=guing that the Consul is the accuser, and

must be held accountable; and praying that the term allowed for proceeding to trial do not begin to run until this dilatory plea against the Consul be admitted.

7. April 13. 1839. The Fiscal represents, that the argument of Wendell against the decree is unsound; and he exposes the "siniqular ratiocination" on which it is built. Mr. Trist is invested with an official character by his country; and it was in the discharge of the duty attached to this official character, that he made known to the Government the outrage which one american citizen had suffered at the hands of another. He prays that this dilatory plea be rejected; and that the course of the case, interrupted thereby, be resumed.

8. April 16. 1839. Decree of the Court. The plea interposed by Wendell declared groundless. The decree of the first of February to be carried into effect; the term therein allowed for proceeding to trial to begin to run from the time the present decree shall be notified to the parties; the witnesses to be reexamined before the Auditor; the accused to be summoned to appear.

9.

9. April 19. 1839. Wendell appeals from the foregoing decision upon his plea against the Consul, to the Queen in person in her Supreme Tribunal of War at Madrid: prays that argument in favour of allowing this appeal be heard; and that until a decision be had thereon, the term for proceeding to trial shall not begin to run.

10. June 15. 1839. The Fiscal represents, that the appeal interposed by Wendell ought to be heard, to an effect corresponding with the nature of the case and the necessity for continuing it. But inasmuch as the case comes within the terms of the Royal Order of the 26th. March of the present years, according to which captain Wendell ought to be delivered over to the Consul of his nation, since his offence was committed on board the vessel commanded by him, without having relation, nor being attended, with consequences out of said vessel, and the case is therefore to be cut short: the Fiscal is of opinion that an official communication be made to the Consul informing him that captain Abraham Wendell, under prosecution in consequence of complaint by him made, remains at his disposal (c.); and at the same

(c.) Wendell had left the island months before.

time, that the plea interposed by said Wendell be freely heard.

11. June 19. 1839. Decree of the Court: Captain Wendell is placed at the disposal of the Consul of his Nation; to whom a communication shall be made for the purpose of remitting the case in pursuance of the Royal Order of the 26th March last.

12. June 23. 1839. Wendell asks a reconsideration of this decision. It is his intention to bring suit in the tribunals of the United States for the detriment to his reputation and interests caused by the Consul's unjust complaint. For this reason it seems wrong that the case should be delivered to his accusers. It ought to be remitted to the President of the United States, M. Van Buren, by the first American vessel of war that shall depart for that country. In this way may justice be safe and the Royal Will be fulfilled as expressed in the said order, the object whereof is, that foreigners under prosecution shall be handed over to their respective governments.

13. July 17. 1839. The Fiscal represents that there is no objection to granting what is asked.

14. July 31. 1839. Decree of the Court. It grants what is asked.

15. August 12. 1839. Communication from the Captain General to the Consul: In pursuance of the criminal prosecution instituted against Mr. Wendell captain of the American Brig Kremlin, for ill treatment and outrage committed upon his first mate, W. Williams Bell, I have, with the opinion and advice of the Auditor of Ware, determined to make known to you that the said case is to be remitted by the first American vessel of war which shall sail, to the Spanish Consul at New York, in order that it be by him remitted to the President of the United States, W. Van Buren, at whose disposal the person of said Wendell remains, in virtue of the provisions of a Royal Order of the 26th of March last.

16. October 28. 1839. Letter from the Spanish Consul at New York to the President of the United States, transmitting the record in the case, in pursuance of the Royal Order and decrees aforementioned.—

A. P. W.

No. 141. (Havana Consulate)

Washington, July 16. 1840

Hon: John Forsyth
Secretary of State.

Sir,

I have the honor to transmit (Enclosure No. 1) my reply to the documents from E. Rotte-ter and others, a copy of which was, by direction of the President, transmitted to me in your favor of September 14. 1839. This reply has unavoida-bly been delayed, from the necessity of first put-ting the Department in possession of the proofs on which it was to be founded.

I am, Sir, very respectfully
Yr. Obt. Servt.
J. P. Hill.

Havana Consulate No. 141. Enclosure No. 1.

Reply of N. P. Trist, Consul of the United States of America at Havana, to the Preamble and Resolutions adopted by the Meeting of ship-masters and ship-owners, convened at the City of New York, on the 8th and 14th of August 1839: and transmitted to the President of the United States, as the ground of their demands for the recall of said Consul.

The Preamble.

1. The introductory account, and first clause of the Preamble are as follows:

"

Pursuant to notice, one of the largest and most respectable meetings of shipmasters ever assembled in this city, met on Thursday evening, at the Second Ward Hotel, for the purpose of consultation, and of taking further measures in reference to Consul Trist, and the shipmasters and seamen abandoned and oppressed by the said consul, at Havana.

Captain Edward Rossiter was called to the Chair; Captains J. Hillman, Henry Russell, Jas. W. Low, were appointed Vice Presidents; and Captains S. E. Glover and B. Ritchie were appointed Secretaries.

The objects of the meeting being stated by the President, Captain Rossiter, the following preamble and resolutions were offered by Captain S. E. Glover:

Whereas, it is the bounden duty of every United States ministerial or consular agent abroad, and especially the peculiar province of consuls and consular agents, vigilantly to watch over and carefully to protect and guard the interests of American commerce and seamen from foreign aggression, as well as to prevent harsh treatment of crews by shipmasters, and to put down and punish mutinous insurrections, or other difficulties occurring on board of all vessels in foreign ports:

" (a)

Reply: From the moment when the Consulship at Havana was entrusted to me, I have ever been

(a) These proceedings were published in the New York Herald, with the following Editorial preface:

reat Meeting of Ship Masters and Owners—
r. Consul Trist brought up with a round
rn.

t last we see some signs of land, ho! in this mat-
We were the first to take it up, and for a time had to sustain the fight single handed against power, place, corruption, and every possible kind of roguery. One by one the loafing journals of Wall street rolled themselves over, and woke up to the importance of the subject; rubbed their eyes and at last saw that it was a matter of too much moment to be overlooked any longer. But let it ever be remembered that the "New York Herald" was the first in the field; the first to call a public meeting at Brown's Auction Hotel, which led to the following glorious results; which are a guarantee that the matter will be pursued to a desired ultimatum.

We have now done our duty in the premises; let the American merchants and ship masters do theirs. No more talk!—but action! action! action!

animated by the deepest sense of the obliga-
tions attached to that trust, estimated by a still
higher and more definite standard than that here
set up. Of this, conclusive proof is afforded, by the
spirit and the mode in which the duties of the
post have been discharged. It is seen in the
unvarying tenor of my official course, and in
the result. That result consists, not only of gen-
eral consequences to our national standing and
to the interests of our citizens at Havana, but,
further, of positive and definite benefits of no small
magnitude, secured solely by unrelaxing zeal
and exertions, persisted in under every form of dis-
couragement and self sacrifice: undirected, un-
bidden, through the purely spontaneous opera-
tion of my individual character; as would have
been expected from it by all to whom it is known,
and by each, in exact proportion to his means
of knowledge.

One of the points (here ~~is about~~ introduce the 54½ page numbered in blue ink)
2. The second part of the Preamble is as
follows:

"And whereas, such authentic facts having been presented to this meeting as prove conclusively that *Nicholas P. Trist*, the consul at Havana, has been guilty of secretly inciting the Spanish authorities to the unlawful condemnation and imprisonment of American captains and seamen for alleged and *unfounded offences* preferred by him against them; and, when remonstrances were presented to the said *Trist* against his high-handed conduct, by *one hundred and fifty-five* respectable shipmasters and citizens of Havana, comprising nearly all that reside there, and that the said remonstrance, when laid before him by Commander Babbit, of U. S. sloop of war Boston, then in port, he, the said consul, treated the same with contemptuous scorn, and so misrepresented his proceedings, as fully to establish, by his own admissions, the truth of ~~the~~ accusations against him. "

Re=

One of the points presented in this pas-
-sage of the Preamble is entitled to most spe-
-cial notice. "To prevent harsh treatment of
crews by ship-masters," is the first of the
specifications which it contains of the "bound-
-en duty of every Consul." Now, I affirm that
this duty is precisely the one to which I have
been especially devoted, from the instant
when I first set foot in the Consulate;—
that but for my devotedness to it, I might
have held the office, as, comparatively, a
sinecure;—that in it, and in it alone,
have originated countless animosities
and heart-burnings against me;—that from it,
almost exclusively, have been derived the
pretexts which my personal enemies have seized
upon for those calumnies, excitements and
clamors, by which they have vainly hoped
to destroy me. I affirm also, that the truth
of all this is, and always has been, a mat-
-ter of absolute notoriety at Havana: a
thing which no American could pass a week
there, associating with any resident country-
-man of fair character, and not become per-
-fectly aware of.

Further, I affirm, that the doctrine

here advanced is not the doctrine of cap-
=tain Wendell, nor of any of those aiders and
abetters of his, who were actively instrumental
in getting up this very meeting and in con
=ceiving this very denunciation. Of those
instruments, this is not the doctrine. It is
my doctrine: my doctrine, which they have
stolen from me, to make a parade of, for their
own ends of malignity and falsehood. My
doctrine, which it has been my pride to
avow, and my pride to act up to. It ever has
been acted up to by me; and thereby have I
earned the hate of Wendell and his like.
Their doctrine is the very reverse. It is, that
the Consul has no right to interfere in cases
of "harsh treatment of crews by ship masters;"
let the oppression be ever so grievous, the ferocity
ever so diabolical. This is their doctrine:
the opposite is only simulated for the occa-
=sion, that they might betray men of proper
sentiments and sound hearts into concert
with the clamor produced by their nefarious
machinations. This is the doctrine on which
Wendell first took his stand, when he thought
to intimidate me by drunken bullying;
and in which he was supported by those

who seized upon him as their fit tool. It will be seen to afford the only possible key to his conduct, as proven by irrefragable testi=mony. But it is not necessary to establish it in that way, as an inference from his acts. Among the documents, there is one where it is expressly laid down; and this, in a manner which speaks volumes. I refer to the letter [b] addressed by Mrs Wendell to the Secretary of State. That letter speaks for itself as a compendium of the pre=posterous inventions which Wendell and his allies were busy in fabricating, and which his unfortunate wife was made the organ for presenting to the Secretary of State. Compare the averment, that "the Captain General of Havana has examin=ed the papers, and cannot discover any violation of the laws", with the Record of

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[b]

Brooklyn October 19. 1838.

Hon: John Forsyth

Secretary of State of the United States

Washington

Sir,

To you I appeal upon a subject of

the Court before whom he stood arraign
=ed for a felonious misdemeanour, and the
mass of overwhelming proof which would
have rendered the sentence inevitable, had it
not been staved off by absurd and purely dil
=atory pleas, which could have no possible
effect but to consume time. But the part of the
He

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painful interest, my husband Capt: Abraham Wendell
of brig Kremlin of New York, is imprisoned at Havana
by the United States Consul; and I am informed
by some of the most respectable merchants at
Havana that Capt: Wendell has in no way vi
=olated the laws of Cuba, and the Spanish Au
=thorities cannot find any thing against him,
the Capt: Gen.l of Havana has examined the
papers and cannot discover any violation of the
laws. The difficulty originated in a personal
quarrel with the first officer of brig Kremlin, and,
the U. S. Consul arrested Capt: Wendell, (and he
had no right to interfere,) and he was put into
prison and remains there yet; it is now near
=ly four months since his arrest, and his family
deprived of his support by his confinement.
My husband has always sustained ar re
=spectable standing in society and has sailed -

for

the letter which is fraught with significance in regard to the present point, (the doctrine prevalent in regard to ~~exercitis~~ atrocities committed by "ship masters" upon their "crews") is that wherein it is averred, that "Captain Wendell has in no way violated the laws of Cuba," and "he & the Consul & had no right to interfere". In these few words is the whole body of doctrine comprised: first: the point, that "the laws of Cuba" could not be violated by any atrocity, however great, provided it were ~~committed~~ done "under the American flag; and second,

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for the first merchants in the United States, and been often at Cuba and never met with any difficulty ere this; Permit me Hon: Sir to assure you that Captain Wendell has not violated the laws of Cuba. The American ship masters and merchants who have a thorough knowledge of the whole difficulty will corroborate the above statement. Do Sir, in commiseration to a distressed family & consisting of five young children & have the case investigated, that Captain Wendell may be liberated, and returned to his family.

I am very respectfully
Your Obt: Servant
Maria Julia Wendell.

the point, that "the Consul has no right to in=terfere." Here is the whole catechism. Be=hold, in these few words, "The whole duty of Man" in the Consular office!

(Here revert to p. 2.)

Reply: Of the allegations herein contained, the first involves the imputation of clandestine correspondence with the Authorities. Not only has my official power been perverted to the indulgence of a tyrannical disposition, but the opportunities of my position have been, in the basest manner that could possibly suggest itself to the rankest compound of malignity and cowardice that ever crawled the earth, prostituted by underhand instigation of the authorities to abuse their power! My answer is, that this is pure fiction; that no fact affording the faintest shadow of a presumption in favour of such an idea ever occurred; that no charge can possibly be conceived more absolutely, flagrantly and absurdly incompatible with a human character than this is with the character which my course at Havana has established for me there, and which is nothing but a continuation of that sustained by me through life among those who have known me from infancy.

Stript of this purely, gratuitous and ~~fictive fictitious appendage~~ ornament, the charge reduces itself to this: ~~Allegation~~ that I have incited the Spanish Authorities to the course therein expressed. In this shape, I meet it with the as-

section, that the only ground afforded for it by my conduct at Havana, consists in my having, in some cases of extreme necessity, openly and without concealment, or attempt at concealment, (openly and) work-ed in behalf of mariners, grossly and flagrantly oppressed by those in whose power they were, the protection which it was the duty of the authori-ties of the country to afford them. This will clear-ly appear from the very cases selected by my accusers as the strongest that could be referred to in support of their general and sweeping charge. My conduct therein, from first to last, will be found to have been, not only blame-less, but worthy of the strongest commendation.

The second of the accusations contained in this part of the preamble relates to my alleged con-duct with reference to a certain remonstrance. To this I reply, that here again I have to deal with pure fiction. It is charged, that when said remonstrance was presented to me by commander Babbit, I treated it with contemptuous scorn. My answer is, that no such remonstrance, no paper of the sort, ever was presented to me, or communicated to me, by commander Babbit, nor by any other person. No occurrence ever took place affording the slightest pretext for such an assertion. (c) Another

(c) The only

(&c) The only paper I ever so much as heard of, as being signed by a number of American citizens, was a memorial to Commander Babbit. That memorial I never saw, nor cared to see. I heard that a paper of the kind, aimed at me, was circulating for signature. But my knowledge of the thingth of my position, and my contemptuous pity for my assailants, their motives and their tools, were of too positive and decided a character, to permit me to entertain a moment's curiosity, as to what the memorial contained, or who might be coaxed or cheated into signing it. Nothing would have been easier than to obtain information on these points. I remained completely in the dark until six months after, when the New York "Herald" of June 15. 1839 made its appearance at Havana. The leading editorial, occupying two closely printed columns, is devoted to "the United States Consul at Havana." This article, drawn up "with all the facts of these cases before us," (including documents that could not possibly have been furnished by any one except Commander Babbit,) professes to give a succinct account of the occurrences at Havana to which he had been a party. It contains a long extract from a "strong memorial to Captain Babbit" from "the American residents, merchants and captains of vessels."

The very first sentence of this extract is at irreconcileable variance with the history of the memorial given in the paragraph immediately preceding it. That memorial does not even profess to be a remonstrance, address=ed, directly or indirectly, to the Consul. It moreover is, on the face of it, a fabrication. Its purpose was, not to induce commander Babbit to interfere, but to screen him for having interfered. It was the fruit of an afterthought, to save him if possible from the consequences of the grossest and most outrageous ~~consequences~~ misconduct, in every imaginable shape, of which an officer in his position could pos=sibly be guilty. He had, to the disgrace of his coun=try, made himself conspicuous to all eyes as the drunken and imbecile associate and tool of three or four individuals, the infamy of whose charac=ters was matter of absolute notoriety. To save him from punishment, and at the same time further the plot by which the Consul was to be destroyed, was the object of this antedated fabrication. This is apparent upon its own face, and upon the face also of the "Herald" Editorial which ushered it be=fore the public eye. Evidence in regard to its origin, and to the fraud whereby signatures were obtain=ed to it, is among the documents transmitted

Another allegation comprised in the above sentence is, that the Consul "misrepresented his proceedings." This differs from the rest, inasmuch as it is not pure fiction. It has reference to a reality: to the official correspondence which took place between Commander Babbit and myself. (d) [redacted] Of all the allegations that have appeared against me, this is the solitary one that poses the ~~faintest~~ faintest air of plausibility. Except it alone, not one can possibly have originated in aught save deliberate mendacity. It relates to a point involved in the case of the crew of the Ship William Engs. The statement on that point, contained in my letter to Commander Babbit, is of a character that, under a partial, one sided view, admits the possibility, though a bare possibility, of its being

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to the Secretary of State. Let the subject be submitted to a Court composed of honorable men of the profession to which Commander Babbit is, notoriously, a deep disgrace, and their verdict will put the stamp upon this piece of crapulous and imbecile villany.

The articles in the New York "Herald" and in the New York "Times," which constituted some of the moves in the game will be found in an Appendix to this Reply.

x for the footnote has referred to, see p. 9.

so understood as to afford room for a hasty in-ference that it's meaning was at variance with the facts of the case. That inference, however, is utterly unwaranted. For conclusive proof on this point, I refer to the correspondence, to the docu-ments of the case, and, to my statement on the subject.

The Resolutions. (c)

~~Transmitted to the President of the U.S.~~

There-fore be it

1.— Resolved, as the sense of this meeting, That the conduct of the said Trist has been wanton, tyrannical, unlawful, and unjust, and highly injurious and offensive to our *profession*.

2.— Resolved, That the proceedings of the said Consul, in encouraging the Spanish authorities to bring to unlawful trial, on exaggerated charges, the crew of the American ship "William Engs," and causing them to be condemned without counsel or trial by jury, and sentenced, like common fellons, to chains and hard labor, in breaking stones under Spanish task-masters, is enough to stamp the name of Trist with infamy, and to prove him totally unworthy to hold his high and, what ought to be, honorable station.

3.— Resolved, That the tyrannical, illegal, and unjust imprisonment of Captain Abraham Wendell jr., of the brig Kremlin, of this port, during a protracted period of five months and his continuance under bonds for an additional period of three months, on the false accusations brought by said Trist against Captain Wendell in the Spanish Courts, and which he failed in any instance to sustain, is another evidence of the tyrannical and malignant spirit of persecution which has constantly marked the conduct of said Trist towards his countrymen.

4.— Resolved, That in our opinion, the letter which has been subsequently written by said Trist, and recently published in the "New Orleans Courier," and subsequently in the "Globe" and other papers, concerning the interference of Commander Babbit, and in which letter he, the said Trist, denounces his accusers, meaning thereby nearly all the Americans in Havana, as a "set of the vilest and most notorious wretches," as "dirty, sneaking knaves," and "characters of the deepest infamy," is by the gross and billingsgate epithets it employs corroborative proof of the turpitude of his own character, and conclusive evidence that he is unfit for the dignified office he disgraces, as he is destitute of the feelings of an American, and unworthy the name of a gentleman.

5.— Resolved, That the confession made by him in the said letter, that he had been convinced that the captain of the "William Engs" should have been made to break stones in place of his crew, is an additional proof of his guilt in forcing that crew to prison through the agency of the Spanish tribunals—showing also, when too late, a mean attempt at subterfuge, and to win over at the expense of a base and unfounded aspersion upon the captain—the good opinion of the crew upon whom he had been instrumental in the commission of a most flagrant outrage.

6.— Resolved, That the calumnious insinuations thrown out in the aforesaid letter of the said Trist upon the American ship masters and residents of Havana, that he could have bought their good opinion with dinners and other courtesies, is worthy of the author who uttered it, as no other individual but one possessing his hostile feelings towards his countrymen, could have measured the integrity and independence of American citizens by a standard so sordid and corruptible.

7.— Resolved, That the great body of Americans, ship masters and citizens of Havana, whose names are attached to the memorial presented to Capt. Babbitt, as well as the names of those who attend this meeting, fling back these reproachful expressions of Consul Trist, and warm to clear up his character first, and especially the charges embraced in the documents printed by the British minister, inculpating the aforesaid Trist, as a participant in the slave trade, before he has the effrontery to accuse others of being bribed by the courtesies, or any other favor he can bestow.

8.— Resolved, That we respectfully urge upon the seamen and ship masters of every city in the Union, to co-operate in the adoption of such measures as may bring to a speedy recall the aforesaid Nicholas P. Trist, for his oppression, illegal and violent outrages upon American citizens, that he may be summoned to trial to atone for conduct which is not only disgraceful to him as an individual, but is dishonorable to our country in a foreign land.

(c) These are given, together with the accompanying account of the proceedings attending their adoption, exactly as transmitted to the President of the U. S.— In this shape, they include even the headings given to the accounts of the meetings contained in the N. Y. Herald.— This explanation is given because

9.- Resolved, That a memorial be presented to the proper authorities for the removal of the aforesaid Consul Trist, and that a committee be appointed to prepare and superintend the same:—whereupon the following captains were appointed upon said committee: Captains Hillman, Russell, Low, R. E. Glover, Atkins—and Captains S. E. Glover and Ritchie as Secretaries.

10.- Resolved, That the unblushing attempt of the said consul, to vindicate himself and to challenge his accusers to the proof, while he reiterates offensive epithets upon the heads of respectable American ship masters and citizens residing in, or trading to Havana, is another additional evidence of the effect of the intoxication of office upon the mind of a person, whose recreant conduct proves him to be by nature prone to acts of the most flagitious description.

11.- Resolved, That in consideration of the extreme severity and harsh treatment received by Capt. Wendell, at the hands of the aforesaid Trist, and in consequence of the sufferings and privations experienced during his confinement, by a numerous family, consisting of a wife and five daughters, we do cheerfully agree to raise a fund to sustain Capt. Wendell in a civil suit in the courts of the United States against the said Consul Trist, and we do therefore recommend that subscription papers be opened for this purpose.

12.- Resolved, That the proceedings of the meeting be signed by the President, Vice Presidents and Secretaries of this meeting, and that all the papers in this city be and they are hereby requested to publish the same.

Capt. EDWARD ROBSETER, President.

J. HILLMAN, HENRY RUSSELL, JAMES W. LOW, } Vice Presidents.

S. E. Glover, B. Ritchie, } Secretaries.

On motion of Capt. S. E. Glover, the resolutions were unanimously adopted.

(4)

During the meeting, Captain Wendell was called on to make a statement of his case, which he did in a concise, clear and feeling manner, eliciting from his professional brethren every mark of manly sympathy.

This was both natural and honorable - men who have braved every danger of sea and tempest in every clime, have a common feeling: for what has been the fate of one to day, may be the fate of another to morrow; and the same assumption of power claimed and exercised by Trist, at Havana, may consign the seamen or Masters of American vessels to the tender mercies of the Dey of Algiers, the Pacha of Egypt, the Grand

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(d) It was immediately made public property in the Havana coffee houses and grog shops by that Officer and the individuals of whom he figured as the associate & tool!

(f.) The remaining three resolutions will be found further on.

Turk, or to be strangled by the Chinese Mandarins, when it shall suit the whims of a Consul to deliver up American seamen to foreign authorities for alleged offences committed under the American flag.

The Great Meeting of Ship Owners and Masters. — M. Trist to be recalled.

An adjourned meeting of ship owners, ship Masters and others was held last evening at the second ward Hotel. The rooms were crowded to excess and the greatest unanimity prevailed. Captains Monroe, S. E. Glover, Clark and Rossiter, and M. B. H. Norton and several other gentlemen addressed the Meeting in a very feeling and eloquent manner. Captain Monroe, stated that he had followed the seas for twenty two years, and had never before heard of such treatment to a ship Master as that shower-ed down upon Captain Wendell by M. Trist. He said that the utmost good feeling ought always to exist between Consuls and Captains. He said that M. Trist had transcended his powers and should be removed instantly.

Captain Glover remarked that M. Trist

was very much like the half civilized Indian who had been appointed a Judge in the Western country. When asked how he should dispose of a case then before him, he said, "I'll whip pendent, I'll whip plaintiff, and I'll whip Witnesses, they will then trouble me no more." This, said Captain Glover, is precisely the position of Consul Trist. He imprisons Captains, he imprisons Mates, and he imprisons the sailors, for then they will never again complain to him.

Captain Clark stated that he did not believe M. Trist was in Havana. He never saw him and could never find him. Early in July he was wrecked near Havana, and his case required the advice of an American Consul, and he remained five days, and during that time M. Trist was absent, and Captain Clark was compelled to leave for New York, which he did in the ship St. Thomas, without seeing him. Had such a man a right to hold such a responsible station? certainly not.

The letters which had passed between M. Trist, Captain Wendell and Mrs Wendell, were read, and exhibited a total want of feeling and justice on the part of the Consul. Some of them will be published.

The annexed resolutions were read by Captain Glover, and unanimously adopted, and also the subjoined letter to President Van Buren.

13. Resolved. That the thanks of this Meeting be presented to Commander Edward B. Babbit, of the U. S. Sloop of War Boston, through whose intercession Captain Wendell was releas-ed from his dungeon and restored to his dis-tressed family.

14. Resolved. That the thanks of this Meeting be transmitted to Señor Francisco Xava de Arlo of Havana, for his kind attention to Captain Wendell while in prison; also for his noble generosity in relieving Captain Wendell's destitute family in this City.

15. Resolved. That the thanks of this Meeting be presented to Fernando Clark, esq: and others, of Havana, for their kind and undevi-ating attention to our Countrymen who were suffering in prison from the malicious influ-ence or neglect of N. P. Trist, United States Consul."

Reply to the 1st: Resolution: My course has never been either unlawful, nor unjust. It has ever been distin-

-guished

distinguished for the extreme moderation and for=
bearance; even under the severest trials, and the
most unprovoked and wanton insult, from
the comparatively few unworthy members of
the profession, who have thought to drive me from
my line of duty by boisterous bravado and person=
al bullying, by the terror of newspaper obloquy,
and clamorous denunciation, and by threats of
ruinous legal ~~consequences~~ responsibilities.
It has been such, as, despite the inflexibility
ever shown in doing what I deemed to be my
duty, regardless of what might be thought of
it, whether by foe or by friend, to have secured
for me high esteem and cordial regards, on the
part of all respectable American citizens, mer=
=chants, and ship-masters, resident at, or fre=
=quenting, Hawaiia; which sentiments, so far as
I have had the means of judging, do prevail with a
force exactly proportionate to the opportunities en=
=joyed by each for knowing my character, whether
as an officer or as a man. This is the truth, in re=
=gard to my conduct and to my standing. The latter
has been the result of the former; operating too against
all the disadvantage under which it could be
placed by the ceaseless machinations of a notorious
conspiracy, composed of some half dozen characters

of notorious infamy, who, for years, have openly exulted in their determination to drive me from office.

For the accuracy of these assertions, separately and collectively, I refer to the mass of documents in the possession of the Department; and above all to the two cases specially selected by my enemies as the grounds of their most hotest machinations, and here relied upon as alone sufficient to seal my fate.

I mean ~~to~~ the cases of the Crew of the ship William Engs, and of Captain Wendell, master of the Brig Tremlin. I join the issue thus tendered. I accept those cases as fair criteria of my position, of the circumstances which have environed me, and of the qualities which they have elicited. I challenge the most searching scrutiny into them; and I assert, that in exact proportion to it's severity will be the conclusiveness of the conviction which it will force upon any understanding, that my conduct has been, not only blameless, but praiseworthy; that it has been such as, not only not to subject me to ^ minutes censure, but to earn for me the highest approbation that a public servant can become entitled to by faithful and fearless discharge of his duty to his country and

his conscience.

Reply to the 2nd. Resolution: In the foregoing remarks, I have joined issue upon the case here advanced as "enough to stamp the name of Trist with infamy". I aver that in proportion as the scrutiny into it shall be searching, will my title to commendation be adjudged strong. I aver, further, that connected with this case will be found proofs, that the clamour to which it has given rise was the work of the flagitious conspiracy at Havana, whereof the meeting at New York who adopted this resolution were [however unconsciously] the mere instruments.

Reply to the 3rd Resolution: Upon this case also [of Captain Wendell] I have already joined issue. Its principal features were as follows: In the unrestrained indulgence of the most dastardly ferocity, he, wantonly and without the slightest provocation, committed the diabolical outrage, after beating his unoffending and defenceless mate, of fastening him down under the hatches, studiously making the hold as air-tight as it possibly could be made; and there kept him suffocating, in a tropical midsummer

heat, with the yellow fever raging around. Having done this deed, and belonging to a class of Captains who hold the doctrine, and maintain it wherever they can, that a Consul has no right to interfere between a Master and his crew, he attempted to bully me out of giving to the State the protection to which he was entitled. The mate had neither money nor time to waste in bringing his murderous oppressor to justice. All he desired was, to be protected from his ferocity. That protection he received. He was entitled to his discharge. The Consul demanded it. It was refused. The American merchant to whom the captain was consigned by his owners, urged him to comply. But he had found other counsel: he became the ally and the tool of the notorious confederacy who, for years, had made open boast of their hate for the Consul and their determination to destroy him. Under this guidance, he persevered in his refusal, for the express purpose of bringing about what it was sure to result in: the imprisonment of an American ship-master, through the agency of the Consul!

I laid the case before the highest Judicial Authority, the privileged Court, whose duty it is to protect foreigners. It first decreed that the mate should be discharged before me,

according to

according to American law. Under the pretext that he understood the law differently from what I did, and was required to do under special in-structions from the Secretary of State, he again refused compliance. The same decree re-issued, presenting the alternative of compliance or imprison-ment. This was what the Confederacy wanted. He went to prison; and the event was celebrated by a carouse, and drunken rejoicings over this sealing of my doom. Some days previously to this arrest; a criminal prosecution for the out-rage upon his mate, was instituted. The examination of the first witnesses disclosed grounds requiring Wardell's confinement. He proved to have already got himself into jail by his defiance of the judicial authority. His imprisonment was confirmed upon this new grounds. Every opportunity was given him for defence. Nearly thirty witness-es were examined, almost all American ship-masters and Mariners. Their testimony, all committed to writing, was conclusive and overwhelming. The law adviser of the Court was of opinion that he ought to be sentenced to two years imprisonment at hard labour. The case, however, never reached maturity: the

final trial being, by means of a series of dila=tory pleas put off from time to time; until he effected his release, under a process of Spanish law, whereby a culprit can obtain his enlarge=ment upon taking an oath that he will re=turn to prison when ever summoned. He soon after quit the country. In the month of Novem=ber last, the Record I from which the latter de=tails are taken, was transmitted to the President of the United States, to the end, that the case might come under the cogni=zance of the tribunals of this country.

Such is the case, in outline. It's minor de=tails are in keeping with the leading features. They are numerous, and their contemplation fills the mind with disgust and horror. As a whole, it is, at all points, worthy of being the favorite bantling of the Confederacy by whom it was in part, engendered.

Reply to the 4th Resolution: The letter here referred to is a private letter, written by me on the 25th of April 1839, to satisfy the anxiety of an intimate friend in Louisiana. Without my consent or knowledge, extracts from it were published. This was an act of indiscreet zeal, on the part of

of one who, knowing me, knew the baselessness of the calumnies with which the press was teeming, and could not bear with them as patiently as I did. It was a great error: the only one committed on my side, from the moment when this tempest of malignity and mendacity began to howl, down to the present hour. To the public eye, the publication naturally seemed an attempt at vindication. Viewed in that light it justly proved altogether unsatisfactory; and, as a necessary consequence, I have been subjected to the disadvantage of the sentiment thus awakened.

But this, the just fruit of the indiscretion committed by my friend, did not suffice for the purposes of my assailants.

The audacity of the act almost transcends belief; yet it is true, that, of the three quotations here given as extracts from the publication referred to, but one is to be found in it. The other two are taken from my letter of December 10th 1838 to Commander Babbit. (xxxg.) In

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(xxxg.) This letter was an official reply to an official communication from one Officer of the Government to another! The motive for the audacious imposture here practised, of

this letter, it was incumbent on me to inform him of the characters of three individuals to whom he had been referred for the corroboration of a mass of stupid falsehood. That information, I gave, by telling him that the first on the list "is the most dirty, sneaking knave, known to me by reputation in all Havana," and that the second, a bosom associate of the first, "is a character of the deepest infamy." And here we see these expressions paraded, as having been applied by me to my accusers in mass, "meaning thereby near by all the Americans in Havana"! Just as much truth exactly, and no more, is contained in the application given to the one extract truly taken from the published extract from my letter. In that letter, I informed my friend that commander Babbit had been made a

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of giving as quotations from a publication wherein they do not exist, extracts taken from an official document never made public, and which therefore could not be credited to their true source without exposing the shocking breach of faith and decency by means of which they had been obtained, is too obvious for remark.

tool

tool of by a set of the vilest and most notorious wretches." The wretches referred to were the same that I had in vain taken the trouble to caution him against.

I will dismiss the topic by referring to the proofs adduced by me, that these expressions are an unexaggerated statement of matters of fact; that they do not contain a single word but is fully and conclusively justified. This is a point no wise involved in the demonstration of the character of the Resolution under consideration, nor even relevant thereto. But it is closely pertinent to the subject which that Resolution brings into view: and it may as well, therefore, be referred to.

Reply to the 5th Resolution: Here again, I must point out the fraud of ascribing to a published extract from my letter, a thing not to be found there, but clandestinely obtained from a different source. That published extract does not contain, & nor does the letter, a syllable on the subject of "the Captain of the William Engs." Nowhere but in my official communication to Commander Babbit is any

pretext to be found for the "confession" here falsely and calumniously ascribed to me. That communication does contain the following words: "In regard to the seamen, the case is different. Those of the William Engs were arrested by the authorities of the place, at a call from their captain; prosecuted for mutiny, convicted and condemned. As to the fact of the mutiny, or conflict on board the ship, there can be no doubt. With regard to its origin, the story told by them is, I am sorry to say, but too probable on the face of it; judging from my experience of such matters. If true, the captain ought to be now engaged in cracking stones in their stead." Its mutilation is but of a piece with the falsehood ascribing it to a source different from that whence the pretext for the calumny was obtained. The horror awakened by such a consular thought with reference to an "American citizen," when not of the sailor, but of the captain order, is but an indication of the ideas of justice well known to be prevalent among captains of a certain class in regard to all questions between a captain and a mere sailor. It is but a spontaneous, unguarded expression of what it is expected of a consul to think and to do.

But, to obtain the concurrence of captains of a different description in the burst of indignation thus elicited, it was requisite to mutilate my language, and to present to their minds a thought different from that which had been uttered, and which the sentiment of justice in every true "American citizen" would compel him to applaud.

Reply to the 6th Resolution: The expressions here alluded to are those contained in the following passage of a newspaper notice of the calumnies against me.

"The preceding remarks were made as preliminary to the introduction of the following extracts of a letter from the American Consul to a friend in Louisiana. Mr. Trist is thoroughly prepared to meet his accusers.

It will be seen [redacted] that, so far from cowering before his assailants, he views their efforts with that composure which is the result of conscious rectitude—the offspring of a mind and heart satisfied with and confiding in themselves:

"Nothing would have been easier than to enjoy this office as a sinecure, and to be in the bargain puffed every week in the newspapers to the heart's content of the most ravenous appetite for that kind of luxury. Two things only were requisite to such a state of felicity. First, to turn away every sailor who came to me with a broken head for protection against the marlinspike, or to be released from unlawful detention, saying to him, "I can't protect you"—which is the established formula— * * * * * * and which I blame no man for using; for, although one of the objects of the consular appointment is the protection of this class of our fellow-citizens, (Consular instructions,) yet so wretchedly neglected has this branch of the public service been by the Government from its foundation to the present day, that not only there are no specific instructions in existence in regard to cases of the most outrageous oppression, which are of hourly occurrence. * * * * *. —— but the knowledge required for framing such instructions does not exist; * * * attention has not been given to the subject. No information exists in regard to it. Of the few miserably defective provisions contained in our statute book, not one but can be demonstrated to be absolutely a dead letter, for any useful result at least, while some of them are prolific enough of evil; and if all the judges and lawyers of the land were called upon to frame instructions for consuls, there is not one who would know upon what points instructions were requisite. Witness the production of Mr. Livingston, (whose equal for such work where can you find?) who I know gave his most anxious attention to a subject, the importance of which his experience as an admiralty lawyer had at least awakened his attention to.

"The second requisite would have been to expend upon the important object of making myself agreeable, by paying visits and giving dinners, one fiftieth of the time which has been devoted to the duties of my post. Such small change judiciously dealt out among 'distinguished citizens,' those whose voice is heard in coffe houses or at the tables of fashionable hotels, and who honor the newspapers with *correspondence*, would have provided the softest of down lining to make the sinecure pleasant and easy.

"But it so happened that having given some years of my life to anxious study of the law, I knew

there must be, in every corner of Christendom at least, some ways and means for the protection of our sailors against barbarities such as I have already said would excite on any plantation in the slave States * * * * and to the use of these ways and means the sailor was entitled at my hands. No one acquainted with me but knows that there are few men in existence to whose tastes contention is so repugnant as to mine * * * * * * Thus, then, my own sense of the value of time would have sufficed, had no other motive existed to deter me, from wantonly engaging in those contentions. But they were *forced* upon me. There is not a single case in which they could have been avoided without a cowardly abandonment of what I knew to be my plain, obvious, indubitable line of duty; my line of duty as a public servant charged with a post of trust; as an *American citizen* from whom some exertion was due for maintaining the respectability of his country's flag; as a *man* owing some sympathy to the victims of diabolical oppression. Had I not known that it was in my power to *act*, and *how*, I too might have folded my arms and said "I can't help it," and the post would have been a delightful one.

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I have acted, and now the battle is to be transferred to the floor of Congress, for there it must come, and this is all that could be desired. The Government will be forced to give its attention to the subject, and *reform* will follow. * * *

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Commander Babbit of the Boston has come here just in the nick of time to be drawn into the matter by a set of the vilest—most notoriously infamous wretches in Havana.

This was written for the eye of private friendship. It has however been given to the public, and I will meet it's publication by proclaiming that it is the truth; that, so far as it goes, it is a faithful and unexaggerated picture of my position and of the position of every American Consul. The application given to it in the Resolution is a perverted one. Nothing can be further from any man's habits of thought and of feeling than it is from mine, to put any such estimate as is here ascribed to me, upon the "integrity and independence" of my countrymen. The man does not breathe who exults more than I, in his right to the proud title of American Citizen, or whose heart warms quicker to every man worthy to bear it. But we all know that among those who legally

possess

possess it, there are individuals whose title rests solely on the accident of their birth-spot; who, despite the glorious advantages which that ensures, grow up to be a pest in their native land, and prove a disgrace to it wherever they shew themselves abroad. These are the men who, when enjoying the benefit of a sojourn in communities where they are unknown, are most exacting of "personal attentions," their sole reliance for support to the consequential air which it is in their nature to put on to every stranger, and especially towards all whom they may fancy to be otherwise anywise dependant on their smile or their frown, their praise or their obloquy; who have no other standard by which to measure the merit of a servant of the Nation, than the degree in which he shall debase it by pandering to their empty conceit; who award him their love or their hate, in proportion to his servility in pampering their morbid appetite for "notice," or his honest and manly disregard of it's contemptible cravings. These are the men who ever impudently arrogate to themselves to speak loudest in the name of the country to which they

are a reproach; and are most vehement in their denunciation of every Officer who, by proving himself to be so far worthy of that country as to scorn to pay the degrading tribute, stirs up the malignity of their nature. We all know, too, that the man capable of conceiv-ing enmity on such grounds is the very man whose bosom is surest to concoct re-venge in it's most secret recesses, and whose brazen effrontery ~~is~~ most sure to pour out the fetid venom under the name of public spirit. A thousand American citizens, worthy of the name, may come and go; returning to their native land with the most favorable im-pressions of the character and the conduct of the fellow-citizen whom they have found sta-tioned abroad. They have judged him, not by the "attentions" which he may have paid them,- (they partake too largely of the innate dignity proper to an American freeman, to care, or to think, about aught so pitiable) but by what they have seen and learnt of the estimation in which he is held, and the manner in which his public duties are discharged. But their voices are unheard beyond the nar-row circles of their immediate friends. They ob-

=trude not themselves upon the public ear.
Who is it that needs be told, that, for all pur
poses of noise, the most pitiably contemptible
individual of the notice-seeking species is
an instrument of transcendent power
when compared with a thousand men of the
latter description? Who needs be informed
that the Counsel for whom coffee-house abuse
and newspaper detraction has terrors, or who
finds charms in Bar-room plaudits and
newspaper puffery, must be the stupidest
of mortals if he does not know that the sur
=est of always to avoid the one and to secure
the other is, to pander to the appetite for "atten
=tion" wherever it is found strongest? And who
is it that does not know that 'tis ever found
strongest there where the destitution of man
=liness, of true dignity, of every requisite element
to a self-sustaining character, is most entire and
most manifest?

Reply to the 7th Resolution: I have already
exposed the fraud whereby "these, reproachful
expressions," have been turned from the particu
=lar individuals against whom they were used
by me, in order to be falsely applied to masses,

concerning whom none but an angry idiot could either express or entertain any such thoughts. On this point, I will here repeat the fact, already stated in the note to the reply ~~of~~ to the Preamble: At the time of writing the letter in question, I was totally destitute of knowledge, absolutely incurious, in regard to the memorial, or to whether it had been signed by ~~a great body~~ a "great body," or a small body. All that I had heard on the subject was, that a paper against me, got up by Clark and Burnstead, was in very active circulation for signatures, chiefly through Wendell's instrumentality, under the special auspices of Commander Babbit, to whom it was addressed, and who was said to have placed one of the boats of the Boston at Wendell's disposal on this interrupting public service. The character of these parties did not admit a doubt that if allowed free scope, they would just as certainly cut their own throats as a herd of swine will when allowed ~~a~~ plenty of water to disport themselves in; and, under a full assurance of the inevitableness of such a result, I left them, without ever bestowing so much as a thought upon what they might be about, perfectly free to obey every prompting of their malignity and mendacity. When, some months after, occasion arose for giving my attention to the matter, it turned out that my

reliance

reliance upon the steady operation of the laws of nature had been ~~prohibited~~ fully justified: the compost of stupid malignity, reckless mendacity and crapulous imbecility had yielded its natural products. The memorial, when exhibited to the public gaze in the New York Herald, told its own story upon its own face: rendering almost superfluous the collateral testimony that will be found among the documents, in regard to the genesis of this and other kindred manifestations of "American Sentiment" (so called) at Havana; which will be seen to be all of the same parentage, and, as exponents of the ~~same~~ feelings and wishes of "the great body of American ship-masters and citizens at Havana," equally trust worthy as the famous 4th of July celebration, (1838) by "the American residents in the city of Havana," not an individual of whom (without single exception) was known, so much as by name, to either of the three leading American merchants resident at Havana!

This Resolution contains, too, an iteration of the calumnious charge of being "a participant in the Slave-Trade." Being on a subject, of which the persons by whom the Resolutions

were concocted could scarcely posses any knowl-
=edge, it cannot be expected that it should
be less unjust or absurd than those whereby it
is preceded, relating to matters in regard to
which accurate information was so close to
their reach as to require nothing but the will,
to posses it. More unjust or more absurd, it
was impossible for anything to be. This im-
=putation regarding the slave-trade is wor-
=thy of the company in which it stands.
Like the rest, it is not only untrue; but the
direct reverse of the truth. The Government
is already in possesion of sufficient evidences
of this. They shall be multiplied and corrobo-
=rated until no Scepticism can hold out a-
=gainst the demonstration of the truth, in re-
=spect to the nature of my position, to the opportu-
=nities which it presented, and to the course
which I have pursued. I should deem it un-
=becoming an American Citizen, holding a
trust from his country, to make a merit of
not having proved corrupt; and had it been
left to depend upon me, none beyond the
few whose position around me at Havana
was such that they could not remain un-
conscious of the truth, would ever have learnt

what I have foregone, and what I have encoun-
-tered. But this calumny has created a necessi-
-ty for meeting it with the whole truth of the
matter; and this will show, that, placed in
a position where, to secure affluence for my
-self and my children, nothing was requisite
but to allow American law [as laid down
by the highest authorities, Chancellor Kent
at their head, and as popularly understood
among the navigating interest of our country]
to take its course, and to accept gold for wink
-ing at the perversion of which it was suscepti
-ble, I not only spurned the wealth thus prof-
-fered, but, by taking the ground which I
[though I alone against a host] believed to
be the only right and lawful ground, exposed
myself and my family to impoverishment
and to all the consequences which the revenge
of baffled cupidity could heap up on the
mountain that had already arisen from the
workings of malevolence prompted by other
causes.

Reply to the 8th Resolution: This would
seem to be of a nature not to call for notice
from me. It however admits of a statement

of very pertinent fact: I have been informed, that the earnest desire for cooperation here manifested, did not confine itself to this general and public appeal; but that in all ports of the Union, personal solicitation was actively plied, orally or by letter, upon every individual ship-master; that, of the number who had visited Havana, but few could be prevailed on to lend their names to the ostraceism; and that it was vehemently protested against, as an utterly unjust and wanton persecution, by those who best knew me, including particularly the respectable class of New York Packet Captain's and not a few New England ship-masters of similar standing. By these, the leaders in the New York denunciation were informed that my course had ever been the reverse of what they had been made to believe; and that the representations to the contrary arose from personal vindictiveness and malice.

Reply to the 9th Resolution: This requires no comment.

Reply to the 10th Resolution: The assertion here in contained, that I "reiterate offensive epithets upon

"upon the heads of respectable American ship
masters and citizens residing in, or trading
to "Havana," has already been demonstrated
to be utterly destitute of foundation. It is
itself, a mere reiteration of a falsehood, concoct
ed by the process of audacious imposture
exposed in my reply to the 4th and 5th
Resolutions.

Reply to the 11th Resolution: The docu
ments of the case establish beyond the pos
sibility of a doubt, that, so far from "extreme
severity and harsh treatment," Captain
Wendell experienced at my hands the
extremest moderation and forbearance; that
his imprisonment was caused solely by his
own gross misconduct, aggravated in every
possible way that the nature of the case al
lowed, and thus aggravated for the express
purpose of obtaining the pretext for machina
tion and clamour against me which would
be afforded by his imprisonment.

This resolution asserts, that Captain
Wendell's "numerous family, consisting of a
wife and five daughters," "experienced suffer
ings and privations during his confinement:"

leaving it to be inferred, that these priv suf-
-ferings and privations were caused by his
confinement. Was the person who drew this
resolution aware of the fact, that the winter
previously, in consequence of the destitution
in which that family was left by the evil
habits and the selfish indulgences of the
husband and father here held up for public
sympathy, a subscription paper was handed
round among the New York captains to save
them from perishing for fuel and other neces-
-saries of life? Did he institute a comparison
between their condition then; their condition dur
-ing the weeks he was squandering money
in Havana coffee-house revelry, and in hold
-ing high carouse in jail, libating oceans of
champaign in toasts to the perdition of the
Consul; and their condition during the period
when he was undergoing the imprisonment
brought on by his wanton indulgence in di
-abolical passion? Did he see captain
Wendell at the period when the accounts of
his extravagance and excesses, carried
home by his own countrymen and brother
ship-masters, were such as to cause his owners
to write to Havana in the following terms:

"There is no doubt on our minds that captain Wendell is in a state of mental derangement, and therefore think the government should overlook his misconduct"? Did he see him at that period, and then again after he had undergone his imprisonment, and had come out a sobered and decent man, so improved in looks and in deportment that, on his visiting the office, I did not recognize him? And did it ever occur to him to calculate the possible value of this change to a "family consisting of a wife and five daughters"?

Did it occur to this patriotic resolution-concocter to enquire what was the condition of the wife and children of William Bell during the period when he was compelled to remain exposed to the black-vomit epidemic and to lose his time in detention at Havana, through the utterly false accusations, brought against him by captain Wendell in sheer wantonness of drunken malice, and clearly disproved by all the witnesses on the trial? Did his humanity ever lead him to ~~enquire~~ ask whether they "experienced sufferings and privations"? Or what sufferings & privations they would have experienced, had their husband and father expired for want of air in the hold, deliberately made air-tight, into which his brutal tyrant forced him, under the alternative of having his brains blown out with pistols, deliberately loaded with ball for the purpose? Or what would have been their feelings & their fate, had he ~~died~~ survived all the perils, and ~~horrors of that~~ and horrors, and sufferings of that fearful July night, only to fall a victim to the yellow fever raging around?

The copyist will take care to leave one blank line after this

Reply to the 12th Resolution: It requires none.

Reply to the 13th Resolution: This contains one averment of fact; and that one averment is in keeping with all that have preceded it. It is not merely an untruth; but the quintessence of many untruths. The Record of the proceedings of the Spanish Tribunal, transmitted to the President of the United States, under a Royal order from Madrid, shows how Captain Wendell obtained his enlargement from prison. It was under a process of Spanish law. He took a solemn oath that he would, whenever summoned by the court, return to

prison; and freely subjected himself to the pains and penalties of perjury in case he should fail.

This is the sense in which Captain Wendell "was released." Commander Babbit had just as much to do with that release as he had with what was at the same instant going on in the star Sirius. So far as I know or believe, that officer's interference at Havana (except so far as to write a letter to me, enclosing copies of those received by him from Wendell and others) did not even commence until after his return on the 5th of January 1839. Captain Wendell was let out of prison on the 20th December previous.

Reply to the 14th Resolution: The person here meant is Don Francisco Xavier de Calo, who, as a letter-writer to Don Fernando Clark, is shewn by the documents presented by Wendell, to have been the compeer of Richard Robert Madden Esquire;—a not unworthy Lion to such a Unicorn! In September 1839 the Hibernian philanthropist (for he is an Irishman and a Catholic, and yet his humanity is so diffusive and so exhaustless as to supply all the calls of his

"Sans

Sans Potatoe" countrymen, and leave a surplus to expend in the arduous toils of a fat West Indian sinecure. I writes to Don Fernando, to describe the piteous condition of the sailors of the William Enos, when discovered by his vigilant humanity, and relieved by his self-~~Iberian~~ bounty. In November 1838, the Iberian model had written to the same Don Fernando, to describe the woful plight in which he had found captain Wendell, who "has no other friend but yourself," though, "I ~~have~~ really have taken some interest for him, a Foreigner in a Prison, and a costly one, distant from his native Home and his Family, with such gloomy prospects before him. How badly, unwisely the American Consul has acted in not weighing properly the consequences of being the instrument in throwing him in such a lonely place, doubly so to a professional man, bereft of sympathies, relations, friends, &c &c &c. It may bring him his death, and I have been happy in the midst of my own misfortune, to render him and lend some reflections, remarks &c &c, to keep up his spirits and to prevent him from sinking under the melancholy to which he is subject now and then. Is he not an American Captain,

a Gentleman, with a large family waiting anxiously, though in vain, to embrace him?"

When these documents were transmitted to me, (the copies of by direction of the President, were received,) this worthy precursor of Dr. Madden, in the ardous labours of pen and ink philantropy, was unknown to me even by name. One Calo, I had had divers occasions to know. On turning to my communication of May 22. 1838, transmitting the Register of the Schooner Washington, which had been recovered by me under circumstances rendering it certain (al-) though the legal proof was probably beyond reach) that it had been used conjointly with a Portuguese Register for the protection of that vessel, when laden with slaves, on her return voyage from Africa, (k) I had occasion to speak of "the owner, a spaniard of this place," and to mention,

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(k) The "Washington" had arrived at Havana from Savannah, in September 1837, under the command of Frederick Neill, (a particular friend of Ferdinand Clark) who was on the Register as sole owner. Neill (no doubt after making a clandestine sale of the vessel through Clark) substituted in his place as master, a man by the name of Ghetty. He then departed from Havana, leaving his vessel at the

among other things, that "M. Ferdinand Clark, an American merchant of very unenviable repute, long a resident in this city," through whose agency that Spaniard had to obtained possession of an american vessel and register, ~~that American vessel and register~~ had given him the further benefit of his legal lore, in regard to what it was, or was not, competent to an American Consul to do towards arresting such desecrations of his own ~~tri~~ flag. That Spaniard's name was Calo.

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disposal of Ferdinand Clark, to whom he executed a Power of Attorney, authorising him to employ her in any way or to sell her. Clark substituted a Spaniard as Attorney, with power to sell; and she was then despatch=ed to Matanzas, whence she proceeded to Africa. Eight months after, a schooner under the Portuguese flag, and a Portuguese name, ~~[illegible]~~ reported to have just landed a cargo of slaves on the coast of Cuba & entered the har=bor of Havana. The Consul's suspicions having been awakened, by circumstances into which it is needless to enter here, he identified this Portuguese Schooner with the American Schooner "Washington," despatched by Clark eight months before; ascertained that her American Register was still in the possession of the parties, and succeeded in recovering it from them.

Upon enquiry, I learnt that M. Clark's correspond=
=ent, Don Francisco Xavier de Calo, was a
brother of his old friend and law-client, M. Slave
and Slave trade broker,
-trader, Calo, owner of the American Schooner
"Washington", passing at Havana, under the
Portuguese name of "Senhora da boa Viagem;"
and which might have continued to pass back
=wards and forwards with both sets of docu=
=ments, but for the accident which disclosed to me the
fact of her being in possession of an American register, and enabled me
to frighten Senor de Calo — despite the strenuous legal assurances and advice given
him by his counsellor in American law, "Don Fernando" (Clark), backed possibly by
Don Fernando's associate and ally against the "Consular tyranny", D. Madden — into
surrendering it into my hands; to the exceeding great mortification, vexation, and rage
of Senor de Calo himself, and of all sympathising friends, Don Fernando at their
head.

This Mr. Calo chanced also to be the
principal owner(i) of the American Brig "Thomas
of Havana", one of the most celebrated slavers
of the island, that had gone over to Key West,
there to obtain, by the agency of Captain Jacob
S. Howell, the pitcous "Antelope" victim of the
tyranny and barbarity which the Wicked Consul
owes a, American documents which could
not be got from him the seizure
of which in that harbour, in December
1838, through the instrumentality of the
Consul, by the commander of the U. S. Ship
Ontario, produced a memorable excitement,
and was deemed an outrage sufficient to
visit by

(i.) At least, the ostensible owner. The nominal owner, on the papers, was the drunken ruffian to whom
Howell, another friend & protege of Clark's [See my No. 139. Enclosure 2.]. He was known, however, to every one
to be a merely nominal owner, for flag purposes. The person really interested was, ostensibly, Calo. It is
impossible, however, that he was nothing but broker-owner, for the accommodation of such of his

justify open threats from Calo and others against the Consul's life.

Such, so far as he admits of being described by means of the fraternal relation, was Don Francisco Xavier de Calo, the co-laborer of Dr Madden, "British Superintendent of captured Africans," in the pious work of supplying Don Fernando Clark with epistles calculated to shed light upon the flagitious character of the American Consul. Considered in the marital and parental relations, and in the less endearing one of debtor and creditor, I learnt respecting this magnificent Spaniard, so enthusiastically repaid by public plaudits in New York "for his kind attention to Captain Wendell while in prison; also for his noble generosity in relieving Captain Wendell's destitute family in this City," that he happened to form Captain Wendell's acquaintance "in prison," from the circumstance of his having got locked in there himself by creditors who were not pleased with his mode of conducting business; at which very time, his own wife and children, at Havana, were suffering for bread.

Reply

as might wish to participate in the slaving expedition without being known. Such expeditions are frequently joint-stock operations. When gathered by a corredor (broker) — the profession of this friend & client of Clark's — the many-tailed character may fairly be presumed to be of that monster. Whether Clark, or any particular friend of his, was among the

Reply to the 15th Resolution. This resolu-
tion tenders "the thanks of this meeting to
Ferdinand Clark Esquire, and others of Havana."
For information as to who and what he is, and
who and what the "others of Havana" are,
who cooperated with him, I refer to the docu-
ments: particularizing, as specially entitled
to notice, Dr. E. D. Bumstead, Colonel Samuel
H. Throop, George M. Selden Esquire [concern-
ing whom, enquire at the Surrogate's office
in the City of New York, for the Will of Mrs
Roberts, who died at Sea, in the hands of Selden,
and follow the clew there obtained,
to the Court of Chancery]; and, last though not least,
Richard Robert Madden Esquire, H. B. Majesty's
Superintendent of captured Africans, and
worthiest of the worthy tools of Don Fernando
Clark.

This concludes my reply to the Resolutions.
The report of Proceedings accompanying those reso-
lutions presents one point requiring notice. Of the
speakers whose remarks are given, one pretends to
state facts. His facts are worthy of the company
in which they are found: "Captain Clark stated
that he did not believe Mr. Trist was in Havana.
He never saw him, and could never find him. Early in

the hidden tails of which his friend Eato was the head, or whether the interest evinced by him on
occasion was, as in the case of Wendell & the William Enys men, the fruit solely of the self-regarding
Philanthropy for which he is so distinguished, — is a mystery which I have never had occasion
or curiosity to fathom.

~~Early~~ in July he was wrecked near Havana, and his case required the advice of an American Consul, and he remained five days, and during that time Mr. Trist was absent, and Captain Clark was compelled to leave for New York, which he did in the ship St. Thomas, without seeing him. Had such a man a right to hold such a responsible station? certainly not."

Reply to Captain Clark's facts: It might very well be true, that he had been in Havana five days, and still be untrue that he had "remained five days," in the sense here attached to the words, through their connection with the other averments. It might very well be true, that he "remained five days," and yet every other syllable of his story be false. But ~~even~~ even that averment is a quintuplicate falsehood: office-hours considered, captain Clark was in Havana, exactly one day. Considered as a question of mere time, he was in Havana about thirtynine hours, to wit: from about 4, o'clock P.M. on the 15th of July 1839, till about 7, o'clock A.M. on the 17th of the same month.

The Brig Merced of New York, Daniel Clark, Master, was wrecked on the isle of Pines, S South side of the Island of Cuba J. Intelligence

of the wreck was, on the 3rd: of July brought to me in person by one of the passengers, M. Joseph Barret of Trinidad de Cuba. On the 5th I wrote a letter on the subject to the Department of State, to go by by the packet ship St. Thomas, then up for New York. After some delays, the morning of the sixteenth was positively fixed for her departure, which would then have taken place, but for the arrival, on the evening of the fifteenth, of Captain Daniel Clark, with his crew and passengers. To accommodate them, Captain Adams of the St. Thomas, agreed to delay his departure one day. He sailed on the morning of the 17th., with Captain Clark and several of his company as passengers. They had arrived at Havana by the rail-cars from the south side of the island. Within an hour after, between 4 and 5 P.M., captain Clark visited the Consulate; where, though long after office-hours, he found the Vice-Consul, and I so the Vice-Consul thinks that he recollects, & the Consul also. Captain Clark had that afternoon and the whole of the next day to make his wants known to the Consul, both through the Vice-Consul and directly. He did transact some business with the Vice-Consul, relative to his crew. On the evening of the sixteenth, the Consul, while at his office, wrote a postscript

of

of that date to his letter of the 5th & which letter went by the St. Thomas & stating the arrival of Captain Clark with his crew and passengers, and the report made by him of good treatment by the Spanish Commandant at the isle of Pines.

When this statement of Captain Clark's first met my eye, I considered it a mere piece of gratuitous and wanton mendacity; the spontaneous folly of a knave instinctively chiming in with the excitement of the crowd in which he chanced to find himself. But I soon possessed grounds for a different belief, to wit: that his story was a pretense & fabrication, devised for the purpose of screening himself from the just charge of gross neglect of duty to his employers.

He states that "his case required the advice of an American Consul." The fact, that no such advice was sought, establishes a strong presumption of the untruth of this averment. But there is one thing that does not depend at all upon presumptive evidence. One thing, his case did require. Not consular advice, but consular agency. It was his duty to get his protest extended, before parting company with his crew, who are the proper and requisite co-parties with the master to such an instrument. This, he ought to have

had done at Havana. It was his own business and duty to get it done. It was no part of the Consul's business to offer him any advice on the subject. Had the Consul taken any such step, Captain Clark would doubtless have fancied that the Consul's sole motive was, to get the fee out of him; and he might have deemed this perfectly sufficient and just ground for treating him with indignity. But, although no part of the duty of the Consul or of any of his assistants to offer advice or to make suggestions to ship-masters in regard to matters coming within their own line of duty. the fact is, that the Vice-Consul, himself an old ship-master, & of that class that do honor to their country & aware that the legal requisites to protests are often, through mere momentary heedlessness, pretermitted until too late, makes it a regular practice to remind captains in all such cases. In the present instance, he did ask Captain Clark whether he was not going to extend his protest before parting with his Crew; and received for reply, that he was already provided with documents, executed before the Spanish Authorities at the Isle of Pines, which would answer all purposes. Of course this fee-bringing point was not pressed by the Vice-Consul.

[the underwriters can tell,]
The probability is, that on his reaching home his employers found that the Spanish documents did not prove entirely satisfactory to the under-writers; that, as was presented by the Vice-Consul, the protest extended at the American Consulate was called for; and that in this strait, Captain Clark's nature and habit made their force felt, by the instant production of the only fact which could extricate him, to wit: that he knew very well he ought to be furnished with such a document; but he had "remained five days" to get it, during all which time "Mr. Foist was absent; and he was then compelled to leave for New York" without it.

A worthy specimen this, both in the magnitude of the lies whereof it is made up, and the reckless effrontery with which they are advanced, in the very teeth of facts known to witnesses by the dozen, of the mountains of stupid falsehood, by which such men as Captain Daniel Clark, in their ignorance of the laws of nature, have fancied that I could be overwhelmed and my voice be smothered. ~~be buried.~~

N. P. Trist.

Reply to the New York Resolutions.

Appendix.

In a note to the foregoing Reply, I refer to the editorials in the New York "Times" and New York "Herald", as moves in the game by which the destruction of my character was to be accomplished, and the Government was to be compelled to yield conformity to the Havana-concocted mandate for my instant dismissal from office.

The fire, first opened by the "Times" on the 3rd of May 1839, (a) was actively kept up with its heaviest ordinance for five months: possibly to this very day; but the papers sent to Havana and brought to my notice by friends there, do not come down later than September 1839. Of the earnest good-will of its artillerymen, and the calibre of their guns, an idea will be afforded by Extracts Nos 1. & 2.

The "Herald" was next enlisted. It showed no lack of zeal, as will be seen from Extract No. 3; which was followed up for many months by equally conclusive indications that they by whom its patriotic ardor had

(a) The United States Sloop of War Boston, Edward B. Babbit Esq. Commander, and Peyton A. Southall Esq. Purser, is reported as being "below" in the New York Journal of Commerce of May 2. 1839.

had been first kindled were careful that it should not die for want of proper aliment.

Extracts Nos 4. 5. & 6. are selected from numberless articles of the same kind, with which our press, from Maine to New-Orleans, was made to teem for a twelvemonth or more. A comparison of their dates with those of the discharges from the batteries selected at New York will show how well contrived the plan of operations was, so far as the mere quality of simultaneousness could be relied upon for ensuring success to such an attempt to overwhelm the public judgment and carry it by a storm of falsehood.

N. P. Hill.

Extract No. 1.

NEW YORK TIMES
AND COMMERCIAL INTELLIGENCER.

FRIDAY MORNING, MAY 3. 1839

FOR PRESIDENT,
HENRY CLAY,
OF KENTUCKY.

FOR VICE PRESIDENT,
NATH'L P. TALLMADGE
OF NEW YORK.

☞Our readers will find on the first page a criticism on Mr. Paulding's works.

THE FEDERAL LOCO FOCO HARD MONEY SYSTEM AND ITS ENDORSERS.—Following in the track of the Globe, the Evening Post is again out in favor of a specie currency. Its latest kick at the banks is an article occupying nearly a column, which appeared on Wednesday. The subject is Mr. Woodbury's report on the currencies of foreign countries, a document prepared from testimony furnished by dependent agents of the Government acting under the instructions of the Treasury Department, and, of course, aware of the purpose to which their information was to be applied: *videlicit* the gilding of that thrice rejected pill, the Sub-Treasury. Cuba and Jamaica are held up as prominent examples of the beneficial effects of repudiating paper as a circulating medium; and the republic of Buenos Ayres! is designated as an example, *par excellence*, of the intimate and necessary connexion between Bank bills and commercial ruin.

Yes, Buenos Ayres, a state which has been tossed about in one unceasing whirlpool of revolutions for the last ten years, and which never had a banking system, properly so called—is, according to the Democratic Review, in a passage quoted and endorsed by the Post, a monument of the fallacy of those benefits "which superficial thinkers are apt to believe may be derived from the use of a paper currency!" Excellent casuist! super-excellent logician! Buenos Ayres has been alternately sacked by the armies of a dozen factions—its shipping has been burnt, its commerce destroyed, its ports blockaded by foreign enemies—its agriculture has been trodden under foot by armed squadrons—its merchants seized and held to ransom at half their fortunes—the whole country has been subsidized and re-subsidized, until it no longer tempted cupidity—and what was the cause of all these disasters? Why it had a *paper currency!* Unanswerable deduction! The assimilation of cause and effect is clear as mud.

One of the effects of an enlightened system of credit, is, that it enables the man who possesses no capital but his industry and integtity, to improve the internal resources of his country—to open new and productive sources of national wealth, at the same time that he is bettering his own condition. It is the handmaid of agriculture, no less than of commerce. What have been the effects of the hard money system of Cuba, on the *soil* of Cuba—on its agriculture—on its means of domestic intercourse? Cuba has the plough used in Spain a century ago—all its agricultural tools are fifty years behind the age—its roads are bridle paths—its produce is brought to market on the backs of mules!

And this is the country that MR. TRIST, Mr. Woodbury, the Globe, the Evening Post, and the whole bevy of subservients, offer us as a *model!*

We shall have something to say very shortly, about Mr. Woodbury's *standard authority*, Mr. TRIST, the Consul at Havana, that will show the people what sort of *agent* the Government employs to get up its foreign hard money statistics. We shall know ere long, whether the President will retain in office an imbecile tyrant, who, in violation of law and his consular powers, throws masters of American vessels into Spanish dungeons, and keeps them there for half a year—who makes false official statements—who, when addressed by the commander of a public vessel, whose good offices have been invoked in favor of the Consul's victim, returns the insulting answer that *too much of his time has been taken up in the affair already.*

The individual case we at present allude to, is that of Captain WENDALL, of the brig Kremlin, who is now, we learn, at Washington, for the purpose of demanding from the President prompt redress, and the dismissal of the worthless public agent. Not only does Mr. CONSUL TRIST admire the hard money system of Spain, but he is willing, it seems, to practise on his fellow citizens, looking to him for protection, the tyranny of the myrmidons of the Spanish crown.

A petition for Mr. TRIST's removal, signed by every American resident in the island of Cuba, as well as by captains of vessels and traders at the several ports, has, we understand, been forwarded to the President. We cannot suppose that its prayer will be rejected, though Mr. TRIST says that *Martin Van Buren* DARE *not turn him out.* The inflated functionary fancies, no doubt, that his Cuba "reports" will insure him an immunity from censure, and screen him in office as long as Woodbury and Benton have any hold upon the Government.

Extract No. 2.

NEW YORK TIMES
AND COMMERCIAL INTELLIGENCER.

SATURDAY MORNING, MAY 4, 1839

FOR PRESIDENT,
HENRY CLAY,
OF KENTUCKY.

FOR VICE PRESIDENT,
NATH'L P. TALLMADGE
OF NEW YORK.

On the first page will be found several interesting articles besides the Legislative proceedings, ship news, markets and importations.

MR. TRIST AGAIN!—We are not yet ready for the full *expose* of MR. CONSUL TRIST's official conduct, with which we propose to treat our readers. In the meantime the following letter from an authentic source, just received from Havana, will serve to show how that functionary and hard money agent of our government is estimated by those whose interests it is his duty to protect.

HAVANA, April 13th, 1839.

The United States sloop of war Boston, Capt. Babbitt commander, is now ready for sea, bound to New York. His departure will be deeply regretted by every American, as this distinguished and benevolent officer has rendered very important services to the Americans incarcerated here, and undergoing punishment. In consequence of the neglect and pusillanimous behavior of the United States consul, the crews of several American vessels are still suffering in a Spanish prison. Among these, are the crew of the American ship "Wm. Engs," of whom I have given you an account in a former letter:—they are unjusly still in chains, suffering punishment at hard labor, on an accusation of mutiny in this harbor.

Capt. Babbitt, upon recciving a communication from several hundred Americans, applied to the United States consul for information respecting various Americans in prison and undergoing punishment. Not receiving satisfactary facts in relation thereto, but, on the contrary, having been given to understand that his co-operation was neither solicited nor required, Capt. Babbitt immediately addressed himself to the captain general for that information which the United States consul had refused to give.

The facts elicited in the case of the "Wm. Engs" are, that on the 11th July the consul wrote to the captain general, asking a speedy trial by the Spanish laws, instead of sending them to the United States:—and that, in violation of the treaty made with Spain, they were not allowed an advocate, nor were permitted to produce witnesses favorable to their cause; and neither would the consul be present and see that justice was done them, or assist them in any way, although they often wrote to him requesting his protection, and stating they were Americans.

In this situation, Captain Babbitt, perceiving that the Consul would not interest himself in behalf of innocent men, (and being importuned by several hundreds of Americans,) applied to the captain general to deliver the seamen over to him to be carried to the United States for trial. This was refused.

Captain Babbitt and his officers have acted nobly. They have interested themselves in every honorable way to deliver these men, but I am sorry to say they have not succeeded.

This morning Captain Babbitt visited the royal prison at the Punta, and after enquiring of the American prisoners the cause of their imprisonment, he assured them he was ever ready to render such assistance as their case merited. Not finding the crew of the "Wm. Engs" there, he proceeded with Purser Southall and Mr. Ferdinand Clark to the Cabanos, where the Governor of the Castle brought before them such Americans as were there. Captain Babbitt stated to them that he had labored to obtain their liberation from their unjust punishment—that he had now submitted the matter to the Government at home, but as some time would elapse before any course could be adopted for their release, he had brought them a bag of money, $143, donated by the officers and crew of his ship for the purpose of relieving their present wants, and as a testimony of their sympathy in their behalf; and that this money he should place in the hands of Mr. Ferdinand Clark, to be appropriated in moderate sums for their daily support and comfort; at the same time promising them that he should not relax his endeavors to have them released as speedily as possible: and although he should be absent a short time, he should not forget them—the Commodore was soon expected here, and would, no doubt, from his known patriotism, protect them, &c. &c.

The poor prisoners shed tears while the gallant Captain Babbitt addressed them.

For a long time we have been expecting another American Consul, but none has yet been appointed: but it is believed that when the United States Government receives all Captain Babbitt's documents in relation to the present occupant, that there will be no further delay in forthwith sending to this port a consul whose abilities and experience will protect the interests of his countrymen here.

The conduct of N. P. Trist, in the affair of Purser Southall and others, has been such as to compel Captain Babbitt to write the consul in the severest terms; and as the whole correspondence will be laid before the Government, we may soon expect some important result.

The Americans here are well satisfied that the present consul has an unfriendly feeling towards his countrymen, and it is hoped by all that he may be speedily removed from this important post."

Extract No. 3.

MORNING HERALD.

SATURDAY, JUNE 15, 1839.

☞ For legal intelligence, see first page.

☞ The WEEKLY HERALD will be published this day at eight o'clock. Price 6¼ cents, at the office, 21 Ann street.

☞ The double sheet "Herald" will be published next Wednesday morning.

The United States Consul at Havana.

The conduct of Mr. Trist, the United States Consul at Havana, has been of so extraordinary, and, as we think, improper a character, as to call for the immediate interference of the Executive of this country, and the instant removal of Mr. Trist from the station he at present occupies. Grievance after grievance, and abuse after abuse, have multiplied so fast in the consulate department of Mr. Trist, within the last year, as to call for instant action on the part of our government, with a view to rectify the abuses complained of.

Some few of the outlines of the grievances have already been detailed by us, but the four specific charges against Mr. Trist are these:—

1. The imprisonment of Capt. Wendell, of the brig Kremlin on a groundless charge.
2. The imprisonment of Capt. Love Straw, of the brig Sarah Ann Alley, on a frivolous charge.
3. The severe punishment of the seamen of the ship W. Engs, without sufficient cause.
4. The justification of an outrageous assault upon Mr. Southall, the purser of the U. S. ship Boston, by a Spanish sentinel.

And although all these four affairs were not commenced by the Consul, yet he has aided and abetted their perpetration by every means in his power, and refused the injured parties any redress.

We have all the facts of these cases before us, but they are too voluminous to be given in full—the principal features are as follow: Capt. Wendell had a very drunken mate, who left his vessel at Matanzas; the Captain properly refused to pay him his wages on this account. Mr. Trist demanded an advance for three months of the mate's wages from Capt. W.; the latter refused, and the Consul had the Captain imprisoned in a dirty cell, *amongst felons of all classes*, whence he was only released at the interference of Capt. Babbitt, of the United States sloop of war Boston. Capt. Love Straw was imprisoned upon a groundless charge of robbery, under equally frivolous and vexatious circumstances, and could get no redress from the Consul. With regard to the seamen on board the W. Engs, it appears that the ship's company were shipped at Liverpool without signing articles—they were to go to Havana, and thence to New Orleans; after the arrival of the vessel at Havana, her destination was changed to some port in Europe; the men refused to go the European voyage, or to do any more work after the change in the vessel's course; an altercation ensued with the master; he and the Consul applied to the Government at Havana to have the men punished by the laws of Cuba, although the alledged offence was committed on board of a United States vessel; the men were taken by soldiers, and with a mere mockery of a trial sentenced to 2 and 4 years hard labor with felons; they were not allowed to hear the testimony against them, employ counsel, or say any thing in their defence; and all these steps were taken at the solicitation of Mr. Trist, whose duty it was to protect them. Here is the concluding sentence of his very unique letter to the Captain General of Cuba; he knew that the men were only amenable to the laws of the United States, yet he says:—"Instead of begging of your Excellency that they may be kept prisoners at my disposal, I think it my duty to follow a contrary course, so that the outrage which *would prove to have been* committed against the laws of this country might be punished in the manner they may think most proper." This letter was written July 11th, 1838.

In the case of Mr. Southall, the purser of the Boston, the outrage was of a most shameful character. Mr. Southall, with his friend, Mr. Sturges, on the 3d of February last, went on shore from the Boston, hired a volante, and drove towards the Tacon Theatre. Just outside the walls, the volante was stopped by the sentry, and ordered back; Mr. Southall and Mr. Sturges were compelled to get out of the volante and pay for it, when it returned to the city. Mr. S. was then proceeding to tell the sentry that he was an United States officer, and wished to visit the Theatre, when the mounted guard charged upon him, endeavored to ride over him, and stabbed him in the neck with a lance, and subsequently stabbed him in the hand. An immense crowd collected around the parties, crying out, "American! American! kill him! kill him!" On purser Southall representing the simple facts of the case to his commanding officer, Capt. Babbit, that gentleman very properly represented the case to the Captain General and Lieutenant Governor of Cuba, demanding an instant investigation into the affair, and that the offending dragoon guard should be punished. The Lieutenant Governor, it appears, was perfectly willing to comply with this request; but it also appears that in the interim, Mr. Trist, the Consul, saw the Governor, and told him that the purser was to blame; he also defended the outrageous conduct of the Spanish soldier towards an officer of the country whose interests he was placed in Havana to protect; and from his misrepresentation, truckling conduct to the Spanish authorities, and underhanded influence, the soldier was permitted to go comparatively unscathed, Mr. Southall obtained no redress for the wrongs done him, and thus the flag of the United States, and through it, the honor of this country, was insulted and trampled upon.

These are the brief outlines of the four principal matters of complaint against the Consul; in addition to these grievances, it appears that Mr. Trist has pursued an uniform system of insulting and oppressing the captains of American vessels, of truckling and toadying to the Spanish authorities, of taking sides with the latter invariably in preference to supporting the honor and interests of his own country, and in every instance where an explanation has been demanded at his hands, of treating the request with contempt, and the petitioners with insolence and abuse. These outrages on the part of Mr. Trist grew to such a height towards the commencement of 1839, that on the arrival of the sloop of war Boston off Havana, the American residents, merchants, and captains of vessels there, drew up a strong memorial to Capt. Babbitt, requesting his interference on behalf of his oppressed countrymen. The following extracts from the memorial will serve to convey some faint idea of the state of feeling on this subject amongst the Americans in Havana, and the grievances complained of:—

"We, the undersigned American citizens, cannot witness your departure from this port without tendering our grateful thanks to you and your benevolent officers, for your very friendly and prompt intercession with the Spanish authorities in favor of the Americans incarcerated in this metropolis, and particularly the crew of the American ship William Engs, and also, our much respected friend, Captain Abraham Wendell, Jr., of Salem, Massachusetts; who have been most unjustly and maliciously abused and cowardly deserted by the Consul of the United States for this place, Nicholas P. Trist.

"Most respectfully do we, at the same time that we tender you our thanks and gratitude, feel it impossible for us to repress our deep emotions of regret that any duty renders it indispensable for you to return to Pensacola before you can make a more strict investigation of the cause of the imprisonment of the aforesaid Americans. We cannot imagine of a higher duty that can possibly demand your immediate attention than searching into the individual cases of these sufferers, and likewise the conduct of the Consul.

Being

"Being impressed with this view on this most important subject, we respectfully urge you to delay your departure, and remain a sufficient time for your reception of certain documents from the Captain General, the highest authority, with full statements concerning such American prisoners as have supplicated your assistance, and be assured we doubt not you will not only meet the approbation of our countrymen and government, but you will have the pleasing satisfaction of being the instrument of rescuing innocence from the contaminating influence of vice.

"We are compelled to speak thus fully to you in behalf of our countrymen, as the well known imbecility of the present occupant of the United States Consulate, and his evident malicious designs would render abortive any other mode of proceeding.—Witness the insignificant and pusillanimous remarks of the Consul at the conclusion of his letter, dated December 10, 1838, and there you will find the clear testimony of his attempt to avoid your co-operation in this busines, and his determination to be sole dictator, which, if successful, would keep the Wm. Engs' crew at hard labor and perhaps in chains during the term of two years, while at the same time he openly declares, 'that if their story be true, the Captain of said vessel ought now to be engaged in breaking stones in their stead.' In another paragraph, he states, 'that upon becoming aware of their account of the affair, which was not until after their condemnation, my belief in its probability led me to take steps in their behalf, which will, I hope, be attended before long with a favorable result' This we believe to be absurd in the extreme, and a deep stratagem to deceive you and the American Government, for the plain unvarnished facts are seen by the corroborating testimony in the declarations of the crew, who prove that they had often wrote to the Consul for aid and protection, *before their trial.*

"And in regard to the imprisonment of our worthy and respectable countryman Capt. A. Wendell, Jr., we know, and therefore honestly state, that immediately after his incarceration, several of our most respectable and honorable American Captains waited upon the Counsel, and inquired of him the cause why, and the authority by which, Capt. Wendell was thus treated, and were told by him (the Consul) that it was not *him*, but the Captain General who imprisoned Capt. Wendell.

"This answer, so unlooked for, led to further investigation, which resulted in the fact, that the Captain General gave the order predicated upon the statement and supplication of the evasive Consul, for the incarceration; looking to the Consul for the proof of his allegations, in order to have him convicted and condemned. We understand, likewise, that the witnesses the Consul brought forward, knew nothing against the Captain, although he, the Consul, used his most strenuous exertions to make it appear that Capt. W. drank liquors to excess; while the communications against the notorious drunken mate, he, (the Consul) suppressed.

"Under these particular circumstances of these cases, we entreat you, sir, as countrymen, and for the benefit of humanity, to remain a sufficient time here for the object of communicating with the venerable Captain General concerning the destitute and suffering Americans, now in prison and undergoing punishment for alleged offences on board of American vessels, and we trust that your proceedings will be transmitted to the American Government. and speedily convince it of the importance of forthwith appointing for this place, a Consul, who, not only is qualified for the duties of the office, but one who has at heart the feelings of an American, and who will execute his high trust impartially and promptly.

"The commerce of the United States is daily augmenting with this port, and therefore it becomes an imperative duty of the American Government, to appoint for this Consular station a man adequate to render all due economy and prosperity to the shipping interest, and one who will avoid litigations with the masters, officers, and seamen in the tribunals here."

In the correspondence which took place between Capt. Babbit and the Consul, the language and phraseology of the latter was coarse, vulgar, insolent and ignorant in the extreme. In the very onset, when Capt. B. asked for information in relation to the two captains, and the seamen, the Consul replied, that in relation to the two first, they had already taken up so much of his time he could bestow no more words or time upon the subject. With regard to the last, he had caused them to be dealt with as he thought proper, and that if he had wanted Capt. B.'s interference he would have sent for him. He said that nothing that the American captains could say against him was worthy of the least evidence; that the respectable merchant who headed the memorial, was "the most dirty and sneaking knave known to him by reputation;" that Dr. Bumstead was "a character of the deepest infamy," and that the third (the nephew of Mr. Throop, U. S. Consul at Naples,) was "probably the son of respectable parents, but a congenial spirit with the other two." When asked for copies of the testimony against the Americans, he coarsely refused to give them. When asked by Capt. B. to use his influence in favor of the suffering Americans, he replied with insolence, that they deserved all that they had got, and that he should not take their part either at Capt. B.'s dictation or request. His official answers to the Captain's official letters he left with a grocer. When applied to about some most important documents to be forwarded to this government, he said that it was too much trouble to go into particulars. He allowed the authorities of Havana, in the case of Purser Southall and the officers of the sloop of war Boston, to stigmatize them as "these military men of the United States, as they call themselves," and he not only did not remonstrate against such language, but actually approved it. When asked by Capt. B. to stir in this matter, he replied—"I decline to tell you; I know nothing about it—I dont want to know—but the affair will be a seasonable warning to upstart officers when they land here hereafter."

We might multiply instances of this nature, but the above are sufficient to show the general tenor of the Consul's line of conduct, in relation to which the memorial and all the correspondence have been transmitted to Washington for the action of the Executive. There are other matters of a grave and important character connected with the Consulate at Havana, that also require strict investigation. There is a strong suspicion that the various slavers detected with American papers, have been furnished with them in some underhanded way or contrivance connected with the American Consulate at Havana. How this has been effected it is not proper to surmise at present; that slavers have got papers thence is strongly believed by a great number of citizens of the soundest judgment. Our government have now the whole subject before them, and it is their duty to sift this matter to the bottom, and reform it. The African slave trade, carried on by American vessels, American sailors, and American papers, is a disgrace to the nation. It is a most serious injury to the South, who are in no way participators in it. The Southern States are abused for the misconduct of some few scoundrels in the North. The system of slavery in the South is a feeling of attachment arising out of the natural moral position of the races which can exist in no other way; whilst the position of the negroes in the North is an unnatural and demoralized position. The whole of this matter, therefore, we repeat, should be thoroughly sifted by our Government, and if they do their duty, little doubt remains that they will instantly recall Mr. Trist, and substitute an American who will protect American interests in preference to all other.

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Extract No. 4.

Centinel & Gazette.

BOSTON.

THURSDAY MORNING, MAY 9, 1839.

BY THE MAILS.

From the Charleston Mercury. (a)

THE INSOLENCE OF OFFICE.

The following is the substance of a statement handed us for publication by a highly respectable Captain engaged in the Cuba trade. All the material facts he assures us would be vouched by any respectable American commander who has traded at Havana during the time embraced, and if a tenth part of them only were true, they present a case calling imperatively for the punishment of the officer guilty of such oppression.

N. P. Trist is the American consul at Havana.

The brig Kremlin, A. Wendell, master, sailed from New York to Matanzas, where, finding no sale, she went to Havana. A few days after her arrival, the mate and crew demanded their discharge. On the 12th of July, 1838, the captain received a letter from the consul, demanding the wages of the crew and three months' extra pay, and ordering him to appear at the consulate. The captain appeared accordingly, and remonstrated that it was contrary to our laws to discharge seamen in foreign ports, and that his consignees, Messrs. Deconick & Spaulding, had advanced him no monies, and refused to do so, on bottomry bond. The consul replied that he had full discretion in the premises, had influence also with the Spanish authorities, and that the case should go into the Spanish courts, and the captain into prison.

On the 25th, the captain was summoned to the consulate by a soldier. He appeared, and was asked for his papers, which he had not with him, and was told by the vice consul, Smith, that he might go. On leaving the office he was arrested by a soldier and taken to prison, where he remained until December 21, 1838. He applied to his consignees by letter, and met with insult at their hands, some of his letters being returned to him. He is indebted for his support in prison, and ultimately for his liberty, to the kindness of Ferdinand Clark, merchant at Havana, and other American citizens at that port, and acknowledges with much gratitude the attention he received from Captain Babbitt of the U. S. ship Boston.

The consul denies having caused this imprisonment, although his own letter to the Spanish Governor requesting it, is on file at the Government House. Documents to this effect are in the hands of an officer of the U. S. Navy.

On the trial of Captain W. all the allegations against him were disproved, and on the date last mentioned, he was released by order of the Governor, after five months imprisonment amongst felons. According to Spanish law, he had to wait at Havana eighty days longer, to meet any fresh proof which might transpire against him.

Capt. Hooper, of the brig Harriet, of Boston, having expressed his indignation at the treatment of Captain W. his words were reported to the consul, who, when the captain was about to clear his vessel, refused him his papers, and summoned him before a Spanish Court for the words spoken. The case was dismissed, but it cost Captain H. ten days' detention, and one hundred dollars expenses of Court.

The following is the report of the consul's conduct in the case of the mutineers of the brig Pearl, Capt. Foque, and the ship William Engs, Captain Vaughan. The officers had been shamefully maltreated and their lives threatened by the crews. The consul heard respectfully the statements of the sailors; but when the officers appeared to lodge their complaint, they were refused a hearing, and ordered out of the office, with contumely and threats. For the first time the cases were put into Spanish Courts by the consul, with the avowed purpose of bringing the captains into trouble. The trial resulted in the condemnation of the crews, who were condemned some to 4 and some to 3 years' hard labor in chains, breaking stones. The consul has since sent such cases home for adjudication.

Another instance of his abuse of his trust is, the case of Captain Howell, of the brig Antelope, of Philadelphia.—This brig sailed from Mobile to Havana with a black crew, who, on her arrival, were seized and imprisoned, according to the law. The crew complained to the captain that they were maltreated and starved, and solicited a release. He consulted with his consignees, and the bonds securing the remaining of the crew on shipboard, without landing while in port, were given, and the crew returned to their work on board: but on leaving port the vessel was stopped by order of the consul, the crew taken out and transferred to a vessel bound to Nantucket. The consignees and captain protested, and sued the consul for damages and detention. The consul besides had Captain Howell removed from his vessel and another commander substituted. His action was founded on a complaint from the black crew, that their provisions were bad. The case is yet pending.

About two months ago, Capt. Howell arrived in Havana, in a sea-lettered vessel. The consul applied to the captain of the U. S. ship Ontario, to take possession of Captain Howell's vessel, which was accordingly carried under the Ontario's guns. The Spanish Governor required an explanation of such an act in the port of Havana, and was apprized of the consul's letter, whereupon he wrote to the consul and had the vessel restored to her rightful commander, and relieved from durance. The consul then applied to the captain of the port, and procured the detention of the vessel, and the imprisonment of Howell and his crew. The vessel's papers were forwarded to Washington, and in two months, by order of the Secretary of State, Howell and crew were released and the vessel delivered. Another suit is in this case brought against the consul for detention and false imprisonment, which is pending.

Some other cases of oppression are given, but the above are enough to entitle the consul to the particular attention of Government.

The Americans in Havana complain that they are unprotected and oppressed, and we have no doubt that the complaints which have been forwarded to Washington, will receive proper attention.

(a) For another specimen of the Havana truths, which it has been the office of this "Mercury" to disseminate throughout our country, see the account of the famous 4th of July celebration (No. 84. Enclosure No. 2.) furnished by the Mercury's "Havana correspondent", Dr. E. D. G. Burnstead, the bosom friend of "Ferdinand Clark, Merchant." It is scarcely necessary to add, that, the

~~[illegible]~~ the Six cables here reported are fabrications from beginning to end. Of all the averments contained in them, there is not one, of any consequence, but is utterly false.

Extract No. 5.

(Charleston)

THE COURIER.

By A. S. Willington & Co. (City Printers.)

JULY 17, 1830.

We shall be obliged to establish a standing head for Consul Trist's delinquencies, if accounts of them continue to flow in upon us with as much rapidity as they have done for some weeks past. It will be seen by the annexed letter taken from the Boston Atlas, that a little wholesome justice has reached the functionary from a foreign source. (a)

To the Editor of the Atlas:

Sir,—I send you an extract of a letter, from a Boston gentleman at Havana.

"Capt. Howell has gained his suit against our American Consul, which was tried in the Spanish Court, for the detention of the vessel he commanded last summer, and also for damages arising from his personal imprisonment by N. P. Trist. The Spanish Court, in giving in their verdict, state, that the American Consul exceeded the bounds of his authority in meddling with the Spanish flag, and that he is held liable for the same. The Consul must sign the documents, and it will make him appear in no very enviable character.

"It now remains to be seen what funds the Consul has to indemnify the damages sustained by Capt. Howell and his Spanish owners.

"Your paper of May 25th contained a long account of the imprisonment of American seamen at Havana, and the noble doings of the officers and crew of the United States sloop of war Boston to relive their sufferings. It also expressed the desire of the American residents and ship masters at Havana that our government would investigate the acts of the Consul. I would ask, Mr. Editor, if any thing has been done at Washington for the removal of so odious a character as N. P. Trist from the Consulate.

AN AMERICAN."

(a) This article, considering the source whence it comes, affords a very striking illustration, at once of the extent of the outcry with which it chimed in, and of the deplorable state to which the public craving for "news" had contributed with other causes to reduce our prets.

"A standing head for Consul Trist's delinquencies"! And from whom does this jeu d'esprit proceed? The New York "Herald"? Not at all! The Charleston "Courier" is its parent: a paper of not very extensive reputation, or circulation perhaps; but yet, known to all who know anything about it to affect ~~pleasant~~ puritan; and not without result,

for

for it really is conducted in a spirit of decency and moderation that, unfortunately, constitutes a most notable distinction. But consider how it was situated. The Charleston "Mercury" having secured the advantage of being able to speak of Consul Trist at first hand in the name of "our Havana correspondent," (See the 4th of July celebration) thereby despatching "By the Mails"—news to the Boston "Centinel," how could the Charleston "Courier" hope not to lose caste as a newsmonger unless it also should provide something fresh & racy on the same engrossing topic? As the Boston "Centinel" copied from the Charleston "Mercury", so, therefore, did the Charleston "Courier" hasten to cut a slice from the Boston "Atlas," as a vehicle for the spice and cayenne which, notwithstanding its rare moderation & forbearance, it was not unprovided with a store of for the service of the public cause against such flagrant offenders, and so duly convicted in that, as "Consul Trist."

Extract No. 6.

NEW YORK GAZETTE.

MONDAY MORNING, JULY 8. 1839

MR. CONSUL TRIST.—We are at all times reluctant to condemn an absent man, or to circulate accusations against a party who is not in a situation to defend himself at once, if he has any defence to offer. We have therefore carefully abstained from copying any of the numerous articles that have appeared lately, in many quarters, severely impugning the character and conduct of Mr. Trist, consul for the United States at Havana. The charges brought against him are such as require immediate action by the government; and we have been expecting to hear of measures being taken for a rigid investigation of his proceedings. But nothing of the kind has yet been intimated, officially or unofficially; and there are not wanting those who say that Mr. Trist's long dissertations on the hard-money-system of Cuba, written for and published in the Globe, have purchased indemnity for all his offences against his countrymen, and all his malversations in office. Mr. Peyton Gay, the consul for Martinique, was promptly dismissed on charges much less weighty than those preferred against Mr. Trist; but he had not written columns in support of the sub-Treasury.

We have been induced to offer these remarks by receiving a letter from a friend who has passed several months at Havana, and writes to us as follows:

"Pray do a public service by helping to 'use up' Mr. Consul Trist of Havana. I have been there two winters, and I believe that not a tithe of the whole truth has yet been told of him. He is abhorred and detested by all his countrymen, and especially by sea-captains whose misfortune it is to have any thing to do with him. You need not fear the possibility of one less worthy being sent in his place."—*Commercial Advertiser.*

We have not ourselves made any remarks upon the delinquences charged upon Mr. Trist, and for the very reasons adduced by our neighbor. It is so easy to make charges and so difficult for an absent man to rebut them, that it is with great reluctance we ever permit exparte statements to appear in this paper, until the opposite party has time to meet the accuser. It seems to us, however, that ample time *has* been given on this occasion, and if the Government do not intend to do *justice to the accused*, either by proving his innocence or punishing him for his guilt, it is about time for the press and the people to take the matter into their own hands. We intend to do *our* part in the business at any rate. (a)

(a) The two last extracts show the agency of four papers, (two to each extract) keeping up the ball from one extremity of the union to the other. This ratio of two to one (which, ~~used~~ on a moderate computation, was ultimately encreased at least ten or twenty-fold) will be seen to have been kept up in the present extract also.

The first rumbling note of preparation for

The

the grand assault which Consul Trist and the Government are here, ~~and~~ reluctantly, condemned for not having exposed the character of, had issued from the New York "Times" on the 3rd May; just two months and five days before this sign of the wondrous phenomenon that Job was getting impatient, and the forbearance of the "Commercial Advertiser" and "Gazette" had simultaneously run out.

In regard to the assertion involved in the remarks of the "Advertiser", that the "long dissertations on the hard-money system of Cuba, written for and published in the Globe" were "Mr Trist's", I will remark that this is a purely gratuitous assumption. Mr. Trist never wrote a syllable on the subject for the Globe. Believing as he did, & does, that the "hard money" cause is the cause of truth and of his country, — that a metallic currency (or one really & truly "convertible" at the will of the holder, into specie), is, from the unalterable nature of things, the one only possible balance-wheel, whereby the industrial movement of any community can be regulated, and that, of all countries on the face of the earth, ours is the one to which, owing to the commercial & enterprising character of its people & the consequent free use of credit, that balance wheel is the most indispensable; believing this, and impressed with the duty of every citizen to lend his aid to the furtherance of the right on every important subject on which his countrymen may become divided in opinion & feeling, he certainly would have "written columns" for the Globe "in support of the Sub-Treasury", had not the necessity of defeating the machinations which the "Advertiser" was here

help

helping to make effectual compelled him to a waste of time that might have been given to a purpose of greater public interest than the discomfiture & exposure of a few worthless villains in their ~~[illegible]~~ plots against an individual character, the strength of which ~~[illegible]~~ was as far beyond their powers of conception as its other properties.

But, owing to this cause, the only thing that ever came from my pen, designed to encourage & to fortify my countrymen & their government in the struggle then waging (and in which many then believed they would inevitably be beat down) to set up in our land a standard of value, which, by being referring to at one stage, in a portion of its commercial move= ment, might make it somewhat less weld, & bring its results somewhat more within the grasp of arithmetic, is, the letter written by me to the Secretary of the Treasury in reply to a circular addressed by him to our Consuls, asking information in regard to the monetary systems of foreign countries. At the time of writing that letter, I was perfectly aware of the person= al consequences to myself: the obloquy and detraction, — the hatred & persecution, which this attempt to render service to my country would bring down upon me, should the ~~efforts~~ good-will which I brought to the task prove effectual enough to attract notice. However ~~however~~ erroneous my views might be, and however worth= less all facts or speculations in support of them, still my motives were such as would secure the respect of all just men, could they but know them as I myself did; and yet ~~that~~ those very motives would, I knew, afford the most plau= sible pretext for calumnious imputation. The very men

[I mean, in the stage when its mercantile movement becomes connected with the Custom House]

who

who at that period felt most certain of beating down the cause which had my prayers for its triumph, — who consi=dered the President and the Party who had nailed its flag to the mast as having thereby sealed their own irrevocable doom, — would be certain to ascribe my interference to the spirit of basest sycophancy. But I knew that the motive which impelled me was the reverse of that; and that the facts of my position would, at any time when it might become worth my while to notice the imputation, be a sufficient reply to it, — that they would force conviction upon every mind capable of a candid judgment, that if ever a service was rendered ~~disinterestedly~~ disinterestedly to the public, it was to in this instance. In no possible way could I (in the common, worldly acceptation of the word) gain by writing that letter on the Cuba currency; while, on the other hand, to do so was evidently to jeopard the welfare of myself & my family. The existing administra=tion could do nothing for me. There was nothing in its gift which I would accept in exchange for the office already held by me: for while it yielded a comfortable support in a cli=mate, to which the best medical advice had concurred in restricting me under penalty of entire loss of health and of life, it had the advantage of being, of all foreign sta=tions, the nearest to our own country; from which nothing short of that absolute necessity would have induced me to remain an exile. Such was my course, in one of its bearings. On the other hand, by volunteering, as

I

I did, against the party who were struggling (and, as they believed — though not as I believed — with the certainty of success) to perpetuate a state of things which I deemed distructive of the best interests of our country, I could not fail to excite intense animosity against an individual who, but for his temerity in mounting the battlements, might have remained an unnoticed, and safe party from the spirit of proscription.

No. 142. (Havana Consulate).

Washington, July 18. 1840

Hon: John Forsyth
Secretary of State.

Sir,

As a complement to the communication made to the Department by Mr. Wm B. Randolph of this city, under date the 30th of January last, enclosing the affidavit of Charles W. Storey Esq. of Salem, in regard to the characters of Mr. Smith, Mr. Spalding & Mr. Bruce, (which affidavit, in consequence of its having been deemed improper that the Department should accede to the request made in my No. 101, was procured by the agency of Mr. Randolph) I have the honor now to transmit (Enclosures Nos 1, 2 & 3.) three letters addressed to Mr. R. by Mr. Joseph S. Cabot of Salem, through whom the communication with Mr. Storey was held.

I am, Sir, very respectfully,
Your Obt. Servt.

A. Dodge

Havana Consulate No. 142. Enclosure No. 2.

Salem Jany 18. 1840.

Sir

I have not as yet received from Mr Story, his answers to the Interrogatories forwarded me in yours of 28th Ultimo. At the time of my receipt of them Mr Story was confined to his room by sickness, and the probability that he has not yet recovered may account for the delay. Mr S. wrote me that if I would forward the copies of the queries to him, he would examine them, and if he could would reply thereto. I accordingly sent them to him for this purpose, but as yet have not his answer. As soon as I receive it I shall communicate it to you. I remain with great Respect & consideration

Wm B Randolph Esq Your most Obdt Servt
Washington Joseph L. Cabot

Wm B. Randolph Esq
Washington
D. C.

Havana Consulate No. 142. Enclosure No. 3.

~~Copy~~

Salem Jan.y 24. 1840.

Sir

I have at last obtained the reply of M.r Storey to such of the interrogatories, enclosed to me in yours of 28.th ult.o as he is able or willing to answer, which I now forward you, as well as the copies of those to which M.r S declines ~~re~~ replying.

You will observe that the queries relating to M.r Clark and respecting certain transactions with which he was connected, M.r Storey has not answered. M.r S. writes me as follows,- "my opinion of M.r C. I do not choose to put upon paper." Some legal process I suppose would be necessary to obtain his evidence on this point. If I can assist you further in this matter it will give me pleasure so to do.

Very respectfully

Your Obdt. Servt.

Joseph S. Cabot.

Wm. B. Randolph esqr.

Washington City D.C.

Rec'd July 22: 1840

Rec'd in Consular Bureau Mch 3d 41

11 C U D. 1 4

July 1840.

STATEMENT READ TO THE COMMITTEE
JUNE 22,. 1840 ON THE CASE OF
N. P. TRIST, FILED IN ENVELOPE
NO. 87.

Sir

In the instructions, which I received from you on my departure for the Island of Cuba, you inform me that "it is the wish of the President, that, during my stay at the Havana, and by all means not liable to give offence to the local authorities, I should apply myself to an examination into the conduction of the African Slave-trade, as carried on by, or for account of the inhabitants of the island, the flags used to cover it, and the foundation of the opinion entertained by the British members of the mixed Commission, sitting at the Havana, for the trial of infractions of existing treaties between Great Britain and Spain for the suppression of the Slave-trade, that the course of

Rec'd July 22: 1870

Rec'd in Consular Bureau Mch 3d 41

Mr. Everett's Report -

21 July 1870

Confidential

Hon. John Forsyth,

Secretary of State.

Sir.

In the instructions, which I received from you on my departure for the Island of Cuba, you inform me that "it is the wish of the President, that, during my stay at the Havana, and by all means not liable to give offence to the local authorities, I should apply myself to an examination into the conduction of the African Slave-trade, as carried on by, or for account of the inhabitants of the island, the flags used to cover it, and the foundation of the opinion entertained by the British members of the Mixed Commission, sitting at the Havana, for the trial of infractions of existing treaties between Great Britain and Spain for the suppression of the Slave-trade, that the course of

policy of the United States has been injurious to the efforts made by other nations for the suppression of the trade.

Reserving for a future communication the more general topics of the history and present state of the trade in slaves, carried on with the island of Cuba, I propose, in the present Report, to confine myself to some remarks upon the use that has been made of the flag of the United States for the purpose of covering this traffic, and the extent to which the Constituted authorities of the United States in the island have been implicated in these abuses.

§1. Extent to which the American flag has been employed at the Havana for the purpose of covering the slave trade.

That the flag of the United States has been employed of late years to a considerable extent at the Havana for the purpose of covering the slave trade is a matter of public notoriety. This practice appears to have commenced in the year 1836,

probably in consequence of the increased difficulties thrown in the way of the trade, as carried on under the Spanish flag, about that time, by the treaty between Great Britain and Spain of the preceding year. From the year 1836, up to the close of the year 1839, the number of American vessels engaged in the trade has been constantly increasing and was greater for the year 1839 than for any preceding one.

During my stay at the Havana the Consul, the Vice Consul and the clerks previously employed in the office, (Mr. Crusoe) were absent and the Consular records had been removed. The acting Consul, Mr. Moreland, had had no connexion with the office and little intercourse with the Consul previously to his appointment. In consequence of these circumstances it was not in my power to obtain at the Consulate any information as to the precise extent to which the National flag has been employed to cover the slave trade; nor was there on the island any other source from which such information could naturally be sought or expected excepting the Mixed Commission organised under the late treaties between Great Britain and Spain for the purpose of suppres-

tending the execution of these treaties. All the information in the possession of this Commission has been communicated to the British Government and is published in the Parliamentary Papers relating to the Slave-trade. It appears from the statements given in these papers that according to the estimates of the British Commissioners, the number of American vessels employed in the slave trade at the Havana was in 1836 four: their names as follows:

The Anaconda,

Viper,

Marshall,

Rosamond and

Fanny Butler.

In 1837 eleven vessels, according to the same authority, were employed in this trade, viz.

The Bee

Two Friends,

Morris Cooper

Terrible

George Washington

Perry.

Teazer

Washington,

Cleopatra &c

Itramura.

In the year 1839 the number had increased to nineteen whose names were as follows.

The Gabriel,
Alexander,
Dido,
Mary Hooper,
Eagle,
Jane,
Traveller,
John Holland,
Dolphin,
Plant,
Venus,
Shark,
Mary Jane,
Comet,
Florida,
Hazard,
Clara,
Liberty and
William Savin.

For 1839 the number was estimated at twenty two: viz The Rebecca,
Oriental,
William Bayard,

Perry Spencer,
Wyoming,
Octavia,
Joseph Wilding,
Hound,
Mary,
Catherine,
Eliza,
Butterfly,
Douglass,
Lark,
Miller Campbell,
Nymph,
John,
Asp,
Hannah,
Centipede
Hesperus.

I have thought it proper to insert these lists as the only approximative estimates, that have been, or probably now can be made of the precise extent of the abuse in question: They appear, however, on comparing them with the general statements of vessels cleared for the coast of Africa, to be simply lists of all the American vessels that sailed for that coast in the years under which they are respectively placed. It

is not probable that they were all intended to bring back return cargoes of slaves, some of them not being of a construction suitable to that service. But the error on that account would perhaps be an offset for - mal than material, since nearly all the vessels dispatched for the coast of africa from the Havana, carry out cargoes to be employed at the factories on the coast in purchasing slaves.

No returns have, of course been published for the present years. I was told by one of the Brit. ish Commissioners at the Havanna that their estimate of the numbers of American vessels employed in the trade up to the first of June was Eight. This agrees nearly enough with the list of clearances for the coast during the same period, which amounted to nine: their names as follows.

The Plant,
Lyon,
Crawford
Hudson,
Audubon,
Caballero,
Theophilus Chase,
Alexander,

Seminole and

Seites.

The acting Consul was of opinion that some of these vessels were intended to be employed in bringing back return cargoes of slaves.

§ 11. Forms in which our navigation is employed to cover the slave trade.

The vessels is built and equipped in some American port, - commonly that of Baltimore, - and cleared as an American ship for the Havana. If it be the object merely to send out a cargo of merchandise suitable for the market, the American character of the vessel is retained, and after discharging on the coast, she takes some other direction. - If it be intended that she shall return to the Havana, with a cargo of slaves, a sale real or fictitious, is made to an individual of some other nation, commonly Portuguese, - the contract to take effect after the arrival of the vessel on the coast of Africa. The American crew is discharged and one composed of foreigners is substituted for it, a single A-

merican remaining to personate the American Captains in case the ship should be visited during her outward passage. In some cases the whole of the American crew remain on board and are entered on the roll as passengers. On the arrival of the ship on the coast of africa the flag is changed, the American Captain is put on board some other vessel, & must registered as a passenger in the Portuguese documents, and the ship, after taking in her slave cargo, returns under Portuguese colors to the island. Here she lands her cargo at some convenient point on the coast and then enters the Havana as a Portuguese vessel returning in ballast from the coast of Africa.

§III. Existing legislation against abuses of this description.

The entire illegality of these proceedings under the existing laws of the United States is sufficiently apparent. The Act of March 22. 1794 provides that no citizen of the United States or foreigner coming into the country shall for himself or any other person whatever, whether as master, factor or

owner, build, fit, equip, load or otherwise prepare any ship or vessel within any port or place of the said United States, nor shall cause any ship or vessel to sail from any port or place within the same, for the purpose of carrying on any trade or traffic in slaves to any foreign country or for the purpose of procuring from any foreign country, place or kingdom the inhabitants of such country to be transported to any foreign county, port or place whatever to be sold or disposed of as slaves.

To enforce this prohibition the Act provides that any vessel fitted out for the purpose in question shall be forfeited to the United States, and that any person, so building, fitting out, equipping, loading, or otherwise preparing or sending away any ship or vessel, knowing or intending that the same shall be employed in any such trade or business, contrary to the true intent and meaning of the act, or in any way aiding or abetting therein shall severally forfeit and pay the sum of two thousand dollars, one moiety thereof to the use of the United States, and the other moiety thereof to the use of him or her, who shall sue for & prose-

cute the same.

A penalty of two hundred dollars, to be sued for and distributed in the same way, is also imposed for each person, transported in violation of these prohibitions; and in order to prevent the violation of the law by foreigners, it is provided that in cases where there shall appear to be a reasonable ground for suspicion that a foreign vessel is intended for the Slave Trade, the Collector of the Customs may refuse to give her a clearance, until a satisfactory bond shall have been furnished that none of the natives of Africa or any other foreign country, shall, contrary to the true intent of the prohibitions.

In construing this Act the Courts of Justice have decided, that, in order to incur forfeiture, it is not necessary that the vessel should be completely fitted and ready for sea, but that the right of seizure attaches as soon as the preparations have proceeded so far as to render the intention manifest. It has also been decided that the forfeiture attaches

where the original voyage commences in the United States, whether the vessel belonged to citizens or foreigners; and whether the party incurring it be himself the owner of the vessel or the agent of some other person native or foreigner. It has likewise been settled that taking the vessel to a foreign port and there making sale of her to a foreigner and commencing a new voyage does not break the continuity of the original adventure, but leaves the parties in the United States subject to the penalty just as if the vessel had gone direct from the United States to the coast of Africa.

By the Act of April 20, 1818, the penalties imposed by the one just quoted are considerably increased, the persons convicted of offending against its provisions being subjected to a fine of not more than five nor less than one thousand dollars and imprisonment for not more than seven nor less than three years.

Finally, by the Act of May 15. 1820 the offence of being engaged in the Slave Trade is declared to be Piracy and the persons convicted of it are subjected to the punishment of Death.

§IV. Course pursued by the Consul at the Havana in regard to American vessels engaged in the Slave Trade.

Such being the extent to which the flag of the United States has been used for the purpose of covering an illicit trade in slaves, and such being the severity of the existing legislation against that abuse, the serious and important question arises:— How has it happened that the Consular authorities on the Island and particularly at the Havana, which has been the principal seat of the abuse, have not interfered to prevent it?

The first and most natural supposition would perhaps be that the trade had been carried on so secretly as to have escaped the knowledge of the Consular authorities. But that supposition is precluded by acknowledged facts. It is agreed on all hands that the arrival and departure of the vessels engaged in the trade are matters of public notoriety. The Consul at the Havana recently, in a letter to the British Commissioners that "the slave trade "is a matter, which everyone who feels any curiosity "upon the subject, knows all about; and that although

"destitutes of such curiosity, but earnestly of his belief that
"use of his ears and understands any language that-
"ever at the Havana, avoid hearing the news of the
"day or hour. Of which it always constitutes the
"most piquant topic". The same idea is repeated
in various forms, whenever the occasion calls it forth,
throughout the whole correspondence of the Consul with
the British Commissioners and with the Department of
State.

The violations of the laws against the slave
trade, which have occurred at the Havana, being
thus not less notorious than they have been gross and
palpable, the question returns, why the Consular
authority has not been employed to prevent them
or, where that could not be done, to bring the per-
sons engaged in them to punishment.

The reason given by the Consul, in various
passages of his correspondence, for not interfering
is that although the character and destination of
the vessels engaged in the slave trade are notorious,
it is not practicable to obtain such evidence of them,
as would be a sufficient basis for legal proceedings.
In a passage immediately following the one just quoted

from a letter to the British Commissioners, the Consul "remarks that although every body at the Havana "knows ale about the slave trade, no one so knows any "thing about it, that the testimony he could or "would give in a Court of Justice, or for any judicial "purpose upon any point, connected with it, would "be worth a straw."

§V. Case of the Venus.

In order to form an opinion with greater distinctness and certainty upon the validity of this reason, it may, perhaps, be useful to take a single case -- I will use for this purpose that of the Venus, which has been rendered by accidental circumstances more notorious than any other: - The Venus is a very fine ship, built at Baltimore in the year 1838 for account of the house of Mayora at the Havana, which has obtained an unenviable notoriety by its extensive dealings in the slave trade. The Venus was built and equipped expressly for this trade and was regularly cleared at the custom house as an American ship. She arrived at the Havana in the summer of that year, and soon after sailed again, -

state in the character of an American ship, — ostensibly for the port of Bahia. In less than four months, however, she returned to the Havana under Portuguese colors, and bearing the name of the Dugueza da Braganza. After landing somewhere on the coast a cargo of eight hundred and seventy slaves, — the living remains of eleven hundred & twenty, when she is said to have had latterly on board, she entered the harbor of the Havana, at in ballast, from the coast of Africa. The gross proceeds of this voyage are said to have been about $300.000, of the expences of the vessel and outward cargo, less than $100.000, — leaving a clear profit of not less than $200.000. The Venus is state engaged in the trade under her new name, and was lying in the harbor of the Havana, when I was there. She had made several voyages not less successful than the first, and, from her beauty of construction and fast sailing, has always been an object of particular attention.

On the first arrival of the Venus at the Havana her character and destination were notorious to the whole population of the place, including, of

course, the American Consul, as the person particularly charged with the duty of observing every occurrence connected with the navigation of his country. She was prepared and fitted out for an illegal trade, which rendered her liable to forfeiture, subjected the persons engaged in fitting her out and navigating her to long imprisonment and heavy penalties, and, should they accomplish the objects intended, to capital punishment as principals or accessories in the crime of Piracy. Was it not the duty of the Consul to request of the local authorities the seizure of a vessel so situated, or, at least, to take such steps as might have appeared best fitted to establish by positive evidence the facts which common rumor had rendered notorious? Had the Venus been prepared and fitted out for a piratical voyage of a different character, would the Consul, on being informed of the fact, by common rumor or in any other way, - have hesitated to request her detention? I think not; and yet, under the existing laws of the United States, it is just as clearly the duty of the Consul to detain a vessel intended for the slave trade, as it would be to detain one intended for a piratical voyage

in the more ordinary acceptation of the terms.

After a four months' voyage to the coast of Africa the Jeune returned, as I said before, under Portuguese colors and the new name of the Duquesa de Bragança, which she has since borne. On this occasion the British Commissioners at the Havana addressed a letter to the American Consul, suggesting to him the expediency of taking some steps to ascertain her character, and stating particularly that an examination by him of the crew and papers might perhaps throw some light upon the subject. It does not appear, however, that any steps of this kind were taken, although it is related here, as has been remarked above, that taking the vessel to a foreign port and there making sale of her to a foreigner and so commencing a new voyage does not break the continuity of the original adventure, but leaves the parties engaged in it as fully subject to the penalties imposed by the law, as if the vessel had gone direct from the United States to the coast of Africa. It was therefore still a matter of high importance to ascertain her slave-trading character by sufficient evidence, supposing even that she had changed her national flag. It is quite doubtful, however, whether

any bona fide sale had taken place and consequently whether she were not still liable to forfeiture as American. Certainly she had not had time, since she was recognised by the Consul and cleared at the Custom-house as American, to go to Bahia, where it was understood, she was to procure her Portuguese papers.

Was the Consul then faultfiable in not taking any steps to arrest the criminal career of that vessel, and particularly, in not subjecting her crew to inquest to examination, agreeably to the suggestion of the British Commissioners, — which, — had it not been suggested by them, — must, of course, have occurred to himself as the first and most natural proceeding? In a letter to the Commissioners, written some time afterwards the Consul makes some remarks upon that point, which may serve to give his view of the subject. The Commissioners had suggested that an examination might be made "through the Captain General "or by the Consul's own authority and the intervention "of the American vessel of war then in the harbor".

The Consul says in reply that supposing the "jurisdiction of the American Consul to be absolute as la-

"gard to every vessel entering the port of Havana un-
"der the American flag, it must evidently be restric-
"ted to them: — that had the Vessel returned under the
"American flag, the course of the Consul would have
"been so plain that perhaps no suggestion from the Brittish
"Commissioners would have been required to make him
"enter upon it: — that she was now under the Por-
"tuguese flag and called La Duqueza da Braganza
"was not less generally nor less surely known than
"that she had got back from Africa; and that he
"had obtained an official assurance of this change
"in the name and character of the vessel by inquiry
"of the Captain of the Port." Being this informed, first,
by common rumor and then on official authority that
the Vessel had assumed the name & character of a
Portuguese vessel, the Consul seems to have supposed
that, in consequence of that fact, all right of interven-
tion or examination, even, on his part, had entirely
ceased; — his authority in this respect being, in his
opinion, limited to vessels bearing the American flag.
He even intimates that he should have exposed him-
self to the dangers of manifest personal violence, if
he had gone on board a vessel, the character of which

was not certainly known to him for the purpose of ascertaining whether she were or were not American.

Without expressing any opinion how far the views of the subject may be correct, and supposing with the Consul, that his right of direct intervention on his own authority is restricted to vessels bearing the American flag, it does not seem to follow of necessity that there was nothing further to be done. By stating to the Captain General that the vessel had notoriously been engaged in a piratical expedition, and that though she now bore the Portuguese flag, it was doubtful whether she was not still American, he might probably have obtained an order for her detention and permission to examine her papers and crew. The Consul appears to suppose that such an application to the Captain General would have been attended with great difficulties, and, particularly, that it would have been necessary, as a preliminary point, to establish by sufficient legal evidence that the identity of the Duquesa de Braganza and the Venus, which he thinks could not have been done. In regard to this point it seems to me that the Consul exaggerates the difficulties of the case. I cannot conceive that it would have been at all embarrassing to have

been called on for evidence sufficient to warrant examination, that these two vessels were one and the same.

But supposing even that this objection were surmounted, says the Consul, "it must still be apparent that an interminable succession of mountains lay behind, that the only consequence of my getting over the first would be to render the difficulty of retreat the more remarkable."

No intimation is given by the Consul of the nature of this new chain of difficulties, which it would have been necessary to encounter after the removal of the one just alluded to, and it is, of course, impossible to judge how far his apprehensions in this respect were well founded. For myself I am unable to imagine what they could have been. The Captain General must either have granted, or refused the proposed intervention. In the former case the object would have been effected. In the latter nothing worse could have happened than the failure of a well-intended effort to sustain the honor of the national flag and enforce the laws of the Union.

Nor does it appear at all probable, as the Consul seems to apprehend, that the Captain General, had he even thought proper not to accede to such an ap-

plication, would have considered the making of it as an unwarrantable act; or have deemed the Consul to "point out the provision or the principle which au-"thorised a Consul to exercise a surveillance over any "other vessels than such as show his flag". That ships often assume a character and show a flag, which do not belong to them, is notorious every where, and at the Havana is unfortunately too much so to be questioned by any one. To exercise an inspection over foreign flags so far as to detect cases, if possible, that they are not used without authority by Americans as a cover for their violations of the laws of their own country, — far from being a usurpation of power in a Consul, — is one of the duties regularly appertaining to his office; and it is difficult to imagine a case in which the propriety of such inspection could be less questionable than that of a vessel known to have been engaged in a piratical expedition, — which had been American, — and of which the ostensible Portuguese character was, to say the least, extremely doubtful. The Captain General would certainly have had no right to regard an application for authority to ascertain the true character of such a vessel, as offensive: and it would be doing him injustice to suppose, with-

out evidence that he would have done so.

The considerations, which I have now stated to you, which tend to show that the Consul might well & properly have taken some steps to ascertain the character of the Vessel on her return to the Havana, apply with still more force to the case of the same vessel on her first arrival from the United States. It was then as notorious at the Havana that she was intended for a piratical expedition, as it was, after her return from Africa, that she had been upon one. She bore the American flag and was avowedly an American vessel. Whatever difficulties may have stood in the way of an examination of her crew and papers, after her return from Africa, in consequence of her real or pretended change of national character, they did not exist at the time of her first arrival from Baltimore. In reference to her condition on her return from Africa the Consul says in his letter to the Commissioners that "had she entered the port while under the American "flag his course would have been so plain that per- "haps no suggestions from the British Commissioner would "have been requisite to make him enter upon it." On her arrival from Baltimore she did enter the port under the American flag. Why did not the Consul, at-

that times, take the course, which he himself declares to have been, under the circumstances in which the vessel was then placed, too plain for doubt.

The reasons given by the Consul for not taking any steps to ascertain the true character of the Vessel on her return from Africa under the name of the Duquesa de Braganza are, no doubt, valuable - namely the name, that influenced his conduct in other cases of a similar description. If the view that I have taken of the subject be correct, it seems to follow that the Consul might without impropriety have made, - or rather that it was his duty to make, - stronger efforts than he has done to check the piratical practices that have been carried on under his eye with the aid of the American flag. In all cases where the vessels engaged in them, actually bore the American flag he possessed an undoubted right to examine the papers and crew on his own authority. If there had been an ostensible change of character, he had an equally undoubted right to request from the Captain General authority to ascertain by examination whether the apparent change was real or fraudulent. - That such efforts would have always resulted in failure is far from being cer-

tained. Indeed the knowledge by the public that such efforts had been and would be made in all cases where, would be, of itself, a powerful check upon the continuance of these illicit proceedings: — whatever might be the result of the attempt to stop them in any particular case.

§VI. The course pursued by the Consul in regard to vessels under the American flag in some degree sanctioned by the example of the Revenue and prosecuting officers of the United States and of the British Governments.

If the remarks which have now been made should appear in some degree to implicate the Consul in a charge of neglecting his duty, it may be said, on the other hand, in his defence, that the same charge, whether well or ill-founded, must rest, with at least equal, if not greater weight, upon the revenue and prosecuting officers at the port of Baltimore. That the Jeune Eugenie, for example, was building for a piratical expedition, was probably as notorious at Baltimore, while she was on the stocks, as it was at the Havana, after she had taken in her outward cargo. She was liable by law to forfeiture, and the persons engaged in building and equipping her to imprisonment and heavy penalties. Why did not the prosecuting officers libel

her in the District Court &c. Why did the Collector permit her to clear out as an American vessel intended for lawful trade? — It is presumed that the answer given to these questions would be that it was impossible to procure any evidence of the illegal character of the vessel that would be available in a court of justice. A recent experiment seems to show that this supposed impossibility is far from being real. Though the efforts of the prosecuting officers in the case alluded to did not terminate in the conviction of the parties indicted, the general result of the trial was not of a nature to encourage offenders to persevere in their illegal course. Still, if the prosecuting and revenue officers at Baltimore thought it necessary to acquiesce in the building, equipment and clearance of this and other vessels, ostensibly intended for privateer expeditions, was the Consul at the Havana bound to exercise a greater degree of vigilance?, might he not fairly consider it as called for by the acquiescence of these officers, who had the same or nearly the same means for ascertaining the true character of these vessels which he had, that the case was beyond the reach of the existing laws?

Such, whether right or wrong, seems to have been the Consul's conclusion. He has accordingly, on several

occasions recommended, in his correspondence with the Department of State, the passage of new laws upon the subject, and in the course of the last year transmitted drafts of two bills, which have been communicated to a committee of the Senate and employed as a part of the materials for the bill now before Congress. What the operation of this bill, should it become a law, will be, remains to be seen. For myself I must confess that the existing laws, as detailed above, appear to me clear and well-adapted to the purpose in view. The penalties are certainly as severe, as the strongest friends to that purpose could desire them to be; and I incline to doubt whether any new provisions will add much to the efficiency of the existing ones. Where, if enforced, would be effectual. If they cannot be enforced, it must be, because public opinion is not yet ripe even for the present legislation: and, in that case, to make the laws more severe, would really weaken them by increasing the difficulty of enforcement. Nevertheless, the interest, taken by the Council in the passage of a new law upon the subject, serves, in connexion with other circumstances, to shew that his omission to take any active measures for the enforcement of the existing laws, has not been out

owing to indifference, neglect, or any more corrupt motive, but to a settled conviction, well or ill-founded, that all such attempts must necessarily prove ineffectual:— and such was also no doubt, the motive of the prosecuting officers at Baltimore in pursuing a similar course.

In illustration of the difficulty of procuring, in cases of this description, any evidence that would be available in a Court of Justice, the Consul, throughout his whole correspondence with the department and with the British Commissioners, repeatedly urges, at great length and at times with considerable force, the example of the British government itself. Notwithstanding the extraordinary zeal shewn by that government for the suppression of the Slave Trade, its constant efforts to induce other governments to concur in taking measures to effect this object and its frequent denunciations through various agents, including the Commissioners at the Havana, of supposed neglect of duty in this respect by the agents of other powers, it still finds itself compelled to acquiesce in the existence, within its own territories, of practices tending directly to sustain & nourish the Slave trade, & precisely similar in character to the occasional building & equipment of ships intended for

the trade in some of the ports of the United States. It appears from the statements of British writers of high authority, the correctness of which has not been called in question, that articles suited to the slave trade only are annually manufactured in Manchester to the amount estimated value of £1.250.000:— that articles of a similar value are also manufactured in other places;— and that one third of the articles habitually given by the Brazilian slave-traders to the coast of Africa, in exchange for slaves, consists of British manufactures. It is even stated by the Consul at the Havana as a fact within his own knowledge, that the shackles, employed in confining the slaves on shipboard, are manufactured in England. It does not appear that any efforts have been made by the British government to prevent these practices, which are, as they have been said, precisely similar in character to the occasional buildings and equipment in our ports of ships intended for the slave trade. On the contrary, when the Brazilian government, in the year 1836,—with a view to the discouragement of the slave-trade,—passed an act, imposing a duty of 15 per cent upon all English goods, suitable to the African markets, which might arrive, in transitu, at any of the ports of Brazil, the British

Agent at Rio Janeiro formally protested against it, and for so doing received the approbation of his government. The British Agent, in making this protest, and his government in approving it, no doubt proceeded on the supposition that the same manufactures, which are employed in the slave trade, are also employed in lawful commerce; and that it would be unjust in the Brazilian government to discourage their use because they are sometimes abused for an illegal purpose. But that consideration applies with equal force to the case of ships, built and equipped for the slave trade in the ports of the United States; and should have served as a caution to the British government, and its agents, not to impute unproper motives to other governments, or their agents, for acquiescing in a state of things, which finds the exact parallel in the British dominions and is acquiesced in by the British government.

§VII. Conclusions respecting the course pursued by the Consul in the cases of vessels bearing the American flag.

From a fair review of the considerations on both sides of the question it would seem to follow:

1. That the Consul might without impropriety & in the fair discharge of his duty ought to have taken

more active measures to prevent the illegal use of the American flag for the purpose of covering the slave trade and to bring to punishment the persons engaged in these practices.

2. That his conviction to do so has not been the result of indifference or any more corrupt motive, but of a settled conviction that any measures which he could take for the purposes alluded to would be entirely ineffectual from the impossibility of procuring such evidence as would be available in a Court of justice.

3. That in this conviction, though probably erroneous, he is sustained by the practice of the prosecuting and revenue officers at Baltimore and of the British Government, in cases of a similar description.

§VIII. Course pursued by the Consul at the Havana in regard to Portuguese vessels engaged in the slave trade.

The considerations, from which I have deduced these conclusions, apply substantially to all the proceedings of the Consul in reference to vessels under the flag of his own country. It is, of course, unnecessary to lengthen this report by examining the details of each particular case. There is, however, one portion of his official conduct which seems to require a separate notice

since it must be justified, if at all, on different grounds, from those which are urged in defence of the rest. I now allude to his employment of the Consular seal to authenticate the papers of Portuguese vessels.

It appears that in the early part of the year 1838 the Portuguese Government ordered their Consul, Don J. M. Fernandez, of a member of the house of George Knight and Co. to discontinue the performance of the duties of his office. Supposing that this order might be only a temporary suspension, and that he should soon be restored to his place, he requested the Consul of the United States to act in his stead, and authenticate with the American seal & signature the papers of Portuguese vessels. The Consul consented and continued to render this service from about the beginning of April 1838 till the close of the year, when he voluntarily declined to act any longer in this capacity.

It also appeared that during the year 1838 the Portuguese flag was the one chiefly employed for the purpose of covering the slave trade. In that year the whole number of vessels engaged in the trade with Cuba, according to the estimates given in the British parliamentary papers, was seventy one, of which forty two

were Portuguese, nineteen, as has been already stated, American, eight Spanish and one Brazilian. Of the seventy one ships, which, according to these estimates, were employed during that year in these piratical expeditions, sixty one, therefore, were sailing with papers authenticated by the seal & signature of the American Consul at the Havana.

§ III. Case of the Portuguese slave-trader Constituçao.

As a specimen of the sort of vessels which assume the Portuguese & the sanction of the American Consular authority may be mentioned the Constituçao, of which a particular description is given in the report of the British Commissioners at Sierra Leone, where she was tried and condemned. She was a schooner of a hundred and twenty eight tons burthen, built at Baltimore and owned by Spaniards at the Havana, but fraudulently placed under Portuguese colors. - To her papers, which were annexed two certificates signed by the Consul of the United States, one authenticating the masters' declarations in regard to the sale, and the other the owners declarations as to the appointment of the master. The clearance at the custom house is also authenticated by a certificate from the American Consulate, dated,

like the one attached to the muster roll, a day previous to the date of the document itself. - This difference of date is not explained by the Consul. The Constituçao was a slave-trader of the worst kind, manned by a crew of about forty persons, armed with twenty one long eighteen pounders besides blunderbusses, muskets, cutlasses, and differing in no essential particular from a common pirate.

§X. Reasons alledged by the Consuls for authenticating the papers of Portuguese slave-traders.

It is understood to be a common practice, during the temporary absence of a Consul or vacancy of the Consulate office for the Consul of some other friendly power to act in his stead. This practice is described by the Consul in his letters to the department as "a common law of the Consular body" and as being, on "several occasions, recognised in acts of Congress with "regard to the authentication of documents". In ordinary cases it would of course be, of itself, a matter of entire indifference, and would even be carried with approbation by the government as mutually convenient in intercourse between all the maritime powers. It is apparent, however, that the case changes its character entirely, when

the practice in question becomes the means of covering an illicit trade. In that case it can no longer be viewed with approbation or indifference. It is fraught with acknowledged evil and must be justified on grounds peculiar to itself.

The distinction between the two cases in which the Consular seal and signature are employed to authenticate the papers of native & foreign vessels is obvious. In regard to the vessels of his own country the Consul is bound by his official duty to perform his functions to the best of his knowledge and ability. He must take all possible care that his actions shall not lead to an abuse of the flag; but after doing every thing which he believes in his conscience can be done to this end, he must act; - although he may feel, at the time, a strong persuasion, amounting to moral certainty, that he is sanctioning a secret fraud beyond the reach of law.

In regard to foreign vessels the case is different. He is under no obligations to render Consular services to the subjects of any foreign power: He does it, if at all, from mere courtesy: and although such courtesy be in ordinary cases highly commendable, it puts on an opposite character, as has been remarked, when it has the

of facilitating illicit trade, especially under the revolting form of piracy. That the flag of the United States should have been employed for nearly a year to cover or in some way protect and countenance the whole slave-trade of the island of Cuba:- that in that year the Consular seal and signature should have given countenance in various degrees to the papers of vessels directly or indirectly engaged in expeditions which the laws of the United States denounce and punish as piratical. is a deplorable fact, the character of which no justification, on grounds of mere courtesy, can be supposed for a moment even to palliate.

I am compelled to add, that a portion of the considerations alleged by the Consul in his defence on this head, appear to me to aggravate, instead of palliating the impropriety of his proceedings. In his letters to the department he remarks that "under a sense "of the obligations imposed upon him by the laws "recognising the practice in question, quickened by a "very indignant feeling of the audacious trampling "under foot of the first principles of international ordi-"nances, enacted under his eyes by agents of the Bri-"tish government towards two unfortunate nations. he experi-

"and real of office to report, a large proportion of
"which were done to convince the Spanish Go-
"vernment, and thus prove to it the spirit of defiance
"in which the cause of oppression & injustice combined
"could be treated by an American Consul".

It is no part of the duty of an American Con-
sul to regulate his official duty in any respect by his
view, whether favorable or unfavorable, of the policy of
foreign governments. The duty of giving, on proper occa-
sions, an official expression to the feelings which that
policy is fitted to excite and of adopting corresponding
measures, has been committed by the people to other a-
gents. A Consul, who undertakes to perform it, assumes
a portion of the power delegated to the General Government
of the Union. This is true even when the policy, com-
plained of, bears directly upon the honor & interests of
our own country: and is still more obviously so, when,
as in the present case, it bears upon a third party, and
a Spain & Portugal. If the error now alluded to had
had no other result than a misplaced expression of opi-
nion in official correspondence, it would have been com-
paratively unimportant; but where it forms one of the
indictments to acts of an extraordinary character (as in-
cluding the sanction of the Consular seal & signature to

the papers of forty one vessels engaged in piratical expeditions, it becomes of the highest consequence and cannot but be regarded as meriting the severest reprobation.

The remarks which immediately follow the passage last quoted from the Council's letter to the department upon this subject are even more singular.

"The authentications which I gave, (to the papers of Portuguese vessels) though meant most scrupulously with "regard to any questions that could possibly arise concerning these vessels as slavers, were attended with an "effect of a very positive and unimportant kind. As "corroborating the other proofs which the vessel might "carry of a regularity of proceeding in her fitting out "& departure they were to a certain extent evidences of "a non-piratical intent. There is fairness among robbers. And I doubt not that under circumstances in "which piracy, - particularly upon an American flag, - "might have been resolved upon the mere fact of their "having for their own protection a document with the "signature and seal of the American Consul, - would "throw the determination the other way"

It is difficult to say what construction ought to be put upon this extraordinary passage. Was there an understanding, formal or implied, between the Consul

and the persons interested in their expeditions, that if they turned privateers, they would ignore the American flag? This is perhaps hardly probable; but on the mildest construction of his language, it must still be received as evidence on his own evidence, that one of his inducements to an identical the papers of these vessels was the expectation, that, in the event of their turning privateers, he should by so doing avert their depredations from the American flag: in other words he gives the sanction of the American Consulate to the actual exercise of piracy upon the natives of Africa in order to avert the exercise of it in a possible contingency from his own countrymen. It is hardly necessary to remark how utterly inconsistent such a course would be, not merely with justice & common humanity, but with the generous sentiments that are natural to every American citizen. I am confident that I express the universal feeling of my countrymen, when I say that they would much sooner expose their lives in an effort to protect the Africans from piracy, than purchase an exemption from it for themselves by facilitating its exercise upon the inhabitants of Africa or any other foreign country.

It is far from being apparent, as is stated at the commencement of the last extract, that these authentications

of Portuguese papers were entirely unimportant (mere ministerial) in facilitating the operations of these vessels. They could not, of course, give them at sea the protection of the American flag, but they were of great use in procuring them their clearances as Portuguese vessels, a character to which most of them had really no claim. The Consul himself informs the department that one of his motives for giving up the charge of the Portuguese Consulate was the discovery of the fact that the local authorities at the Havana affected to consider his authentications of Portuguese papers as a warrant for clearing the vessels. This conduct on the part of the authorities does not seem to me to be justly liable to the charge of affectation; but to have been, on the contrary, the natural, and proper course. The Consulars authentications of the Role and Passport or Register, which were given in these cases by the American Consul, as a substitute for the Portuguese, are, in fact, the warrant upon which the Custom House in all countries regularly clears out a foreign vessel. But even had the authorities at the Havana acted irregularly in this particular, the fact that they thought proper to consider the authentications of the Ameri-

can Consul as a warrant for clearing the vessel ought to have prevented him from declaring that authentication as entirely unimportant & in his own language mere waste paper.

In the same letter to the Department of State from which I have made the preceding extracts the Consul further remarks that "it seemed to behove him as an "Man and an American citizen to maintain the indep- "endence and honesty of his conscientious sentiment "upon the subject of slavery, as unconformable as possi- "ble with the Mau-Mauish principles and tricky conduct "daily awakened in him the most lively disgust. — "Hence, convinced though he was that the vessel was a "slaver he could leave the declaration of the master "in regards to his crew, and give him a certificate thereof, "upon the same principle and with as perfect freedom "of conscience, as, had the circumstances been reversed, he "would have given to a British manufacturer or mer- "chant a certificate of his declaration, as to the true "contents of a bale of cottons, or a cask of shackles, "however notorious it might be that they could have "been made for no other purpose than the slave trade."

The meaning seems to be that he would as readily and with as "clear a conscience" practicate the operations

of one sett of foreigners, engaged in the slave trade as those of another. This may be conceived, the principle being exactly the same in regard to ale; but how he could take such a course in any case with a "clear conscience", except under the pressure of absolute necessity, which could never exist in regard to any foreign vessel, is not so apparent. Nor is it easily seen how he could expect to shew that his professed opposition to the slave trade was sincere and not hypocritical, by giving the sanction of his official seal and signature, without necessity, to the papers of any foreign slave trading vessels, whether British or Portuguese: Such a course, far from shewing that he was sincere, would certainly, if not very fully and satisfactorily explained, lead to a directly opposite conclusion.

The observations made by the Consul in his letter to the Department in defence of his course in taking charge of the Portuguese Consulate, so far as I have considered them, rather weaken than strengthen his case. The only remark, contained in the letter, which if well founded would furnish an actual justification of his course, as earlier would place it on the same somewhat doubtful footing with his course in regard to the ships of his own country, engaged in the slave trade, is that in which he

transcendently alludes to an supposed "obligations" imposed upon him by the Acts of Congress recognising the practice prevailing among Consuls to act for each other in turn as occasion may require. It is obvious, however, that that obligations, if any, imposed by such Regulations is of the slightest character; and should quite sufficient as an official authority to do what in ordinary cases would be amply warranted by mere courtesy, cannot for a moment be regarded as requiring or authorising him to give his official sanction to practices subsisting under our legislation the character of capital crimes.

The Consul remarks that he accepted the agency at the request of the Portuguese Consul, - kept it for a week to work under the impression that the suspension of the Consul would be temporary and at the close of the year resigned it "under the fear of imputations "likely to grow out of the great responsibility of the "charge and also because the authorities objected to con- "sider his authentications of Portuguese papers as a war- "rant for clearing the ships".

The trivial matter of courtesy, convenience to the pride of pecuniary independence, here alledged, are I recal hardly say. If no weight, in one way or another, in

a case of this description. It is, in fact, hardly believed that any machinery for the Consul to say, on the one hand, that he gave the sanction of his official seal and signature to the papers of a foreign vessel, in accordance with that he should not be called upon to render the same service to many more; or, on the other hand, that he discontinued this practice from an apprehension that he should be suspected of acting from interested motives. The detestable character of the speculations, in which these vessels were engaged, should have prevented him from giving them his sanction in a single instance, and if the only motives that could with propriety be alledged for discontinuing such a course, if he had unfortunately been led by any circumstances to adopt it.

The remark in which the Consul represents himself as retiring from the agency for the reason among others that the local authorities at the Havana appear to consider his authentication of the papers of Portuguese vessels as a warrant for clearing them, has already been alluded to. — When considered as containing an implied apology for undertaking the agency it is open to the obvious objections.

1. That the Consul ought to have known beforehand that his authentication of the papers of Portuguese vessels, as a

substitutes for the Portuguese Consul, would be sought to be regarded by the local authorities as a warrant for clearing them.

2. That if he did not know this beforehand he ought to have discovered it long before the close of this year: and

3. That if his authentications of the papers of these vessels had been less unpardonable to them than it was, as in his own language were incomprehensible, he was still bound by the strictest obligations of duty not to contaminate his official seal & signature by connecting them unnecessarily even in the most remote and unimportant way with these expeditions.

§XI. Conclusions on this head.

On a review of this branch of the subject I am under the necessity of saying that the various charges of unauthenticating the papers of Portuguese vessels, most of them known to be engaged in the slave trade, for the whole year 1838 remain without any sufficient explanations. Although the Consul states himself that he received a pretty large amount of fees for his services in this agency, I do not suppose that he was led to undertake it by motives of pecuniary interest. A regard for national independence in the abstract, - just and generous in itself, but in this instance totally misapplied, -

seems to have been the principal motive which led him to overlook the most obvious considerations of humanity and official duty. Far from feeling, as he says he did, "decided gratification" in the reflection that his official zeal and vigilance would be seen by the British visiting officer on board the Portuguese slave-trader, he ought to have contemplated the possibility of such an occurrence, had it been unavoidable, with the deepest mortification; and where, as in the present case, no necessity for it existed, - he should have shrunk from any - act tending to produce it as unjust, inhuman, and, in the highest degree, discreditable to himself and his country.

It is much to be feared that the influence of this undoubted zeal for national independence upon the conduct of the Consul was increased by the effect of a somewhat erroneous view of the character and operation of the African slave-trade. He states in a letter to the British Commissioners that the abhorrence of the slave trade in which he had been educated had been somewhat undefined by his residence in the island of Cuba, and that he now considers its operation, so far as the individuals carried away and sold as slaves are personally concerned, as positively beneficial. He regards it as objectionable only because it is inconsistent with the

practical development of democratic principles of government.

"My preparations", he remarks, "for coming to the Havana
"had not been of a nature to predispose me to view the
"slave trade with favour, and form, upon what I knew,
"a judgment conflicting with that which had been the grand-
"of my life. And yet it has so happened, so far, at least,
"that I was entertain a deliberate and after-consulted
"doubt whether the slave trade considered in itself be
"not a positive benefit to its supposed victims. Were
"the trade open and regulated in the very direct and im-
"portant happy respects are, I should have no doubt
"whatever on the subject. But even taking it as it is,
"I am strongly inclined to the belief that the purest
"and most judicious philanthropist that ever lived, if
"called upon to decide the question for a cargo of slaves
"ready for embarkation on the coast of Guinea, and re-
"quired to found his judgment solely upon the probable
"consequences to their particular individuals, would unhe-
"sitatingly pronounce in favour of their encountering all the
"perils and hardships of the voyage. The true objection
"to slavery lies in its irreconcileableness with democratic
"principles. ~~It lies~~ This objection has no application,
"except with reference to American institutions & the hopes

"which these and these alone justify us to the possible con-
"clusions of the premises. Though these hopes the objection
"becomes prospectively applicable to all countries in regard to
"which the aspiration may be indulged, that there inha-
"bitants too will one day prove themselves capable of
"self-government. In this regard to others, it can matter but
"little judging from the present conclusions of that world, whether
"their laboring class shall, as a whole, consist of Cau-
"casians under the name of slaves."

As the Island of Cuba is, to all present appearance,
one of the last places, in which democratic principles of
government will be applied in practice, it is, of course,
one of those, where, in the opinion of the Council, it
matters but little whether the laboring class consist of
freemen or slaves. And as he also holds the opinion,
that the abduction of the slave from Africa and his
importation into Cuba are, so far as he is individually
concerned, a positive benefit, the Council cannot be
supposed to look with any very strong disapprobation
upon the slave trade as carried on with that island.

The views of slavery and the slave-trade, which
are here expressed by the Council to the Havana, are not
those which form the basis of the legislation of the United
States upon this subject. Our laws not only contemplate
slavery as a relation entirely at variance with that

practical development of democratic principles of government.

"My preparations", he remarks, "for coming to the Havanna
"had not been of a nature to predispose me to view the
"slave trade with favour, and form, upon what I knew,
"a judgment conflicting with that which had been the guide
"of my life. And yet it has so happened, so far, at least,
"that I was entertain a deliberate and oft-revolved
"doubt whether the slave trade considered in itself be
"not a positive benefit to the supposed victims. Were
"the trade open and regulated in the way that ordi-
"nary passenger vessels are, I should have no doubt
"whatever on the subject. But even taking it as it is,
"I am strongly inclined to the belief that the purest
"and most judicious philanthropist that ever lived, if
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are here expressed by the Council of the Havana, are not
those which form the basis of the legislation of the United
States upon this subject. Our laws not only contemplate
slavery as a relation entirely at variance with that

equality of personal rights, and the liberty of speech and action, which are the leading principles in our political institutions, but they regard the act of carrying away a man by force from his own country, and selling him for a slave in another, as one of the greatest injuries that can be inflicted upon him. Notwithstanding the general silence of our ~~municipal~~ penal code they make it a crime punishable with death. Considering this essential difference between the acts of the Consul upon this whole subject, to those which are expressly in the laws of the United States, it would not be very singular, if he should, as conscientiously perhaps to himself, have exhibited somewhat less activity in the enforcement of these laws than he naturally would have done under other circumstances: This difference may therefore, as I remarked before, have had some influence in increasing the effect upon his mind of the misapplied zeal for national independence which seems to have been, in regard to the Portuguese vessels, the motive that chiefly determined his conduct.

In the remarks, which I have made above upon the course taken by the Consul in regard to vessels of our own country ~~notorious~~ known to be engaged in the slave-trade, I have considered that portion of his conduct as entirely distinct from all the others, and have given

him full credit for the necessity in which he supposed himself to be placed of recognising the national flag, as such, unless he had positive proof available in a court of justice, of facts that would justify a contrary proceeding. But after looking separately at the several portions of his conduct, it is necessary, in order to form a correct estimate of the whole, to view the different parts in connexion and examine their bearings upon each other. When we so doing, we find the Consul lending the sanction of his official seal & signature to Portuguese vessels engaged in the slave trade, not only without necessity, but without the slightest, and even with feelings of "decided gratification," under the influence of his peculiar views on the subject of national independence and slavery, it is perhaps not unnatural to conclude, that these same views may have had some effect in determining his conduct upon in regard to the vessels of his own country, and may have led him to acquiesce more readily than he otherwise would have done in the supposed impossibility of finding any evidence, available in a court of justice, of facts which are admitted by all to be as notorious as the sun at noon-day.

That the impossibility of finding evidence was not in all cases the Consul's motive for not taking measures

to enforce the laws is apparent from the course which he pursued in that of the Washington, or Senhora da Boa Viagem, in which he was called upon to act in both capacities, as Consul for Portugal & the United States. A few remarks upon this case will close this branch of the subject.

§ XII. Case of the Washington, alias Senhora da Boa Viagem.

The Washington, a Baltimore built schooner, arrived at the Havana in September 1837 and in October of the same year cleared at Matanzas for the coast of Africa. On the 7th. of May following report was made at the American Consulate, - where Portuguese vessels were then despatched, - of the arrival of the schooner, Senhora da Boa Viagem, under Portuguese colors in ballast from the coast of Africa; and her Register was deposited in the Consul's hands. The identity of this schooner with the Washington was known, and on inspecting her Portuguese Register it was found to be dated in 1836, - a year before her first arrival as an American at the Havana. It was apparent, of course, that there had been no valid change of her national character, and that she was still American. She was, therefore,

liable to forfeiture, and the Captain, who had returned in her, to capital punishment.

Here was positive evidence, available in a Court of Justice, and actually in the Consul's possession, sufficient to condemn the vessel. His first thought, as may be supposed, was to expunge her register; but on further reflexion he adopted a different course. He determined to submit her register to the inspection of the suspended Portuguese Consul. If it should be pronounced by him to be genuine, the American Consul might conclude that it would have been acknowledged as such by a Portuguese, had he been acting in his official capacity; and that the American Consul could, in that character only, never have known that there was any thing fraudulent about it. In that case he conceived that he should have liberty to dispose himself ignorant of the fact which he actually knew, and not to proceed against the vessel. If, on the other hand, the document should prove not to be genuine, he might conclude that it would not have raised the Portuguese Consulate and that he should probably have been informed of its rejection and of the fraudulent character of the transfer. Under these circumstances he would feel himself obliged to proceed a-

gainst the schooner. This idea was accordingly acted on. The Register was colarbited to the Portuguese Consul and by him pronounced to be genuine. The American Consul supposed himself not to know the facts of which he had the documentary evidence in his hands, and the Washington was permitted to continue her career of piracy.

On what principle of law or morals the Consul could feel himself excused from performing his duty, according to facts within his knowledge, because under other circumstances, he might not have known the same facts, is not explained. There are, doubtless, some cases, in which an individual might not think himself at liberty, from considerations of delicacy, to make use, for certain purposes, of information that might be within his power. But the circumstances must be very extraordinary, which would justify the suppression of facts, that might be used for the conviction of a criminal; and in the present case, I am unable to see that there was any reason whatever why the Consul should not have taken advantage of the facts in his possession. The idea of being restrained by so refined notions of delicacy from doing justice to a criminal of this description is, of course, inadmissible.

In a letter to the department upon this subject, the Con-

sul represent himself, - while his course was thus undecided; as letting the delinquent Captain, who had returned in the vessel and had had the effrontery to present himself at the Consulate office, that he. the Consul "should be duly "glad if it should prove not to be his duty to molest- "him." Having satisfied himself in the way I have described that it was not his duty, he finds himself "relieved from a disagreeable necessity." These are expressions which are not usually employed by officers, empowered to enforce the laws, in conversation with criminals, and in reference to the measures that are likely to bring them to justice.

Had he requested the seizure of the vessel, he says that he should have done it on the ground that she was an American, navigating under the Portuguese flag, and not that she was a slave. trader. The Captain General, he thinks, would have regarded a request to seize her as a slave. trader as a "wanton in- "sult". It is well. known that the local authorities of the island connive at the contraband trade in slaves, and are paid for so doing by the parties: - in other words, that they are associates in the concern. But is the American Consul to be deterred from doing his duty, because an honest performance of it may not be agreeable to the local authorities? If the objection be valid in one case it is of

course valid in all, and the Consul loses entirely the power of enforcing the laws in this particular. The regular duty of Consuls and Diplomatic Agents is to make representations to the local authorities, which must often, from the nature of the case, be very disagreeable; and the precise reason why these Agents are invested by the usage of nations with important privileges and exemptions is that they may do their duty in this respect with entire freedom.

In the case of the Washington, the Consul although he held in his own hands documentary evidence sufficient to condemn her, was still fully satisfied that any steps which he could have taken would have been ineffectual. "It would have been impossible to establish the "identity of the two vessels". "Endless delay, would have "been resorted to: — false swearing in all the forms employed "to effect the purpose". It "supposing even", — to use his own language on another similar occasion, — that of the Penns. — "supposing even the Captain General, with every legal and "judicial functionary in the island, to be devoted, heart- "and soul, to having this case judicially established, and "a hundred men able & willing to give the amplest testi- "mony in regard to it, not one of them could do so without "sealing his fate. A thousand knives, — thousands of knives, — "would be eager to drink his blood gratis: and if to have an

"a single one a thousand ounces were the price, they would
"be subscribed in three hours:— nay gold, to any amount,
"would be poured out like water." The Consul proceeds to
state at considerable length that the reason why the Brit-
ish Commissioners Laws are been more active in demanding
infractions of the treaties is concern for their personal safety;
and that his own has been in some degree hazarded by the
steps which he has at times taken in the discharge of his
Consular duty.

From the strength of the language, in which this
particular consideration is expressed, it may be concluded
that it is one of those, which have had the greatest in-
fluence on the Consul's mind. The apprehensions of
personal violence, to which he allows (in good way, appear to
me, from every thing that I understand as could reasonably
the spot, to be greatly exaggerated), and are not, at all
events, a proper motive of conduct. If the state of
things be such as the Havanas that an American Consul
really cannot perform his functions with safety, he should
be withdrawn. While he remains he should do, fearlessly
but fearlessly, what he knows to be his duty, and leave
the consequences to the settled Laws and Governments.

§ XIII. Blank forms, signed by the Consul and said to have been found on board the Portuguese slave traders.

It is stated in the reports of some of the British cruising officers to the Admiralty department, which have been communicated by the British minister at Washington to the department of State, that these officers found on board some of the slave trading ships which they visited blank forms bearing the signature of the Consul at the Havana. On being appriz[illegible] in the first instance through the newspapers, of this statement, the Consul wrote to the department, requesting that applications might be made to the British Secretary of State for Foreign Affairs "for a communication "of one or more of these forms, with a specification of the "uses to which the British government suppose that they "were intended to be put, and of the reasons why that Go- "vernment regarded them to be genuine papers & not for- "geries". In the same letter the Consul remarks that "the "absolute disproof of the calumny is in his hands and that "he shall use it; but that this battle must be reserved "for a future occasion". The intended subsequent communication here alluded to has not yet, I believe, been transmitted to the department.

On inquiry at the Consulate into the probable foundation of this statement, which can hardly be supposed to

rest upon a mere invention of the British cruising officers, I was told by the acting Consul that it must have arisen from the abuse, accidental or intentional, of a printed forms in frequent use at the Consulate, under of which a copy is annexed to this Report. The acting Consul stated it as a fact within his knowledge that it was the practice of the Consul to sign these forms in blank and to place a number of them in the office to be used in his absence by the Vice Consul or the Clerk. It is easy to conceive that, without the connivance of any one attached to the Consulate, some of these blank forms, not signed, might fall into the hands of the agents of Portuguese slave traders, who might go to the office to procure the Consul's certificate.

Another supposition, which some circumstances render perhaps still more probable, is that blank forms, so signed, may have been corruptly furnished to the persons holding them by some one attached to the Consulate. I take pleasure in saying that in regard to this, as well as every other ground of complaint against him, I believe the Consul to be above the suspicion of acting from corrupt, pecuniary motives. The Vice Consul, W. Smith, an aged and highly respected citizen of Massachusetts, is also, - from what I hear of his character, - entirely

above suspicion. I regret to say that I cannot express myself not in an equally satisfactory manner in regard to all the persons who have recently been employed in the Consulate, and particularly as W. Crusoe, who was for some time a clerk in the office, and who learnt, from what I heard of his character, to have enjoyed much too large a share of the Consul's confidence. W. Crusoe is the person to whom to owe the intention of the Consul to entrust the charge of the office during his absence; and I cannot but consider it as fortunate that accidental circumstances prevented this arrangement from taking effect. W. Crusoe is a young man, born, I believe, at Gibraltar, who came to the Havana some years ago from Rio Janeiro, where he had been employed as a clerk in the American Consulate. His circumstances together with his acquaintance with foreign languages and somewhat pleasing manners, appears to have been his recommendations to the Consul at the Havana for a similar employment there. He was taken into the office on a small salary, and had no other visible resources; but it was soon apparent that he must have some ways & means unknown to the public. I was informed by the acting Consul, W. Woodbridge, a gentleman of undoubted veracity and honor, that Crusoe's pay as clerk would not have defrayed the expenses of his

drafts, and that he was a person of dissolute and extravagant habits. These circumstances naturally led to the suspicion that he might procure supplies of money from the slave traders by employing his position in the office to facilitate in some way their operations. Representations, as I understood, were made to the Consul upon this subject, but without the effect of shaking his confidence in the individual alluded to; which continued unimpaired up to the last moment of the Consul's stay in the island, as was apparent from the fact that he had made arrangements for giving Mr. Crabbe the whole charge of the Consulate during his absence. A severe fit of illness, under which Crabbe was attacked just before the Consul's departure, defeated this plan, and made it necessary for him to give up his place in the office. When I was at the Havana, I found him partially recovered, and expecting, on the return of the Consul, to be re-instated in his place. The impression in regard to his character, which was made upon me by his conversation and deportment, corresponded with the account that I had heard of him, & satisfied me that he was a person who ought not to be trusted. The most probable solution of the problem presented by the blank forms appears to me to be that they were copies of the form annexed to this Report, signed by the Consul

for use at the Office, and sold by Clerks to the Portuguese Slave traders to be employed by them in authenticating papers as occasion might require.

§XIV. Correspondence of the Consul at the Havana with the British Commissioners.

The correspondence that has taken place from time to time between the Consul and the British Commissioners at the Havana, constitutes, strictly speaking, no part of the Consul's official proceedings, but as it is frequently alluded to in his Consul's correspondence with his own government, and in the publications that have been called forth by the agitation of this subject, it may not be improper to give it some attention in this Report.

As early as October 1836 the British Commissioners called the attention of the Consul at the Havana to some cases of apprehended violation of our laws prohibiting the slave trade, which appeared to them to require his intervention. At the beginning of this communication they state that "it would be their painful duty "to report the circumstances to their Government". The letter containing this passage is understood to have been written by Mr. Schenley, — then one of the Commissioners & temporarily acting as the principal one, — a person of bad

little disposition or capacity for business. He has since been removed to another situation, similar in character to the one he held at the Havana, but of less importance; and, from what his successor, Mr. Kennedy, stated to me on the subject, I had some reason to suppose, that the impudent language which he employed in this letter was among the causes that led to his change of position.

The letter containing this offensive passage was returned to the British Commissioner by the Consul with an intimation that he did not feel himself at liberty to receive any communication of that character. Here the correspondence ended for the time. Two years afterwards, when the Jennis returned from Africa under the character of the Duchess of Bragenza, the British Commissioner addressed a letter to the Consul, which I have already had occasion to allude to, and in which they suggested the propriety of his taking some steps to ascertain the character of the vessel, and enforce the laws of the United States, so far as the occasion might appear to require. This letter was written by Mr. Kennedy, who had in the interim taken the place of Mr. Schenley, as the British Commissioner, & has since acted as the principal Commissioner. Mr. Kennedy is a person of respectable talents, and of frank, though not very polished manners.

He had been a Member of Parliament before he came to the Havana; and it is commonly understood that he obtained his employment as Commissioner in consideration of his having vacated his seat for the borough of Tiverton in order to make room for Lord Palmerston who had lost his election to the House of Commons. - However this may be it is certain that he has on two or three occasions, displayed a rather uncommon degree of independence in his political course. He was the only member of the House of Commons who divided with O'Connell in favour of repealing the union with Ireland and was one of a very small minority who opposed the grant of an indemnity to the West-Indian slave holders on the emancipation of their slaves. The latter vote seems to shew that he has a strong personal feeling on the subject of slavery, independently of any considerations of expediency or policy. This feeling may probably have been derived in part from the influence of W. Wilberforce, who was his relation and in early life his guardian. It serves to account naturally for any excess of zeal which he may have shewn in the execution of his duties as Commissioner and particularly in his correspondence with the Consul.

The Consul made a reply to this letter, in which, after distinguishing favorably between the style and that of the preceding one, he requests the Commissioners to furnish him with any information which they may possess respecting the vessel in question. The Commissioners in a short reply pointed out more particularly than in their preceding letter the steps which they thought the Consul ought to take. — To this reply the Consul responded at considerable length, and with so much asperity, that the British Commissioners did not deem it expedient to pursue the subject, and merely sent a brief note which for the second time terminated the correspondence.

Some months afterwards they wrote another short letter to the Consul, informing him, that by direction of Lord Palmerston, "that the two Governments having by the 10th. article of the treaty of Ghent mutually engaged to each other that they would use their "utmost endeavors to promote the entire abolition of the "slave-trade", it seems to be perfectly consistent with "the respect, which the Agents of each country must feel "for the other country, that they should not only themselves "act in strict accordance with the spirit of the engage-"ments, which their own government has contracted, but

"that they should furnish to the Agents of the other Go-
"vernment any information, which may be calculated
"to enable that other Government more effectually to ac-
"complish the common purpose".

To this letter the Consul, after an interval of
some weeks, made a long and argumentative reply, in
which he reviews the whole subject of slavery in all
its bearings, — censures in strong terms the course pur-
sued by the British Government in regard to that sub-
ject, and freely accuses that Government and the Com-
missioners, to whom the reply is addressed, of insincerity
and corruption, as well as unjustifiable interference in
matters with which they have no concern.

It is impossible to review this correspondence without
perceiving that the Consul, though apparently influenced
by sentiments of an upright and generous character,
has totally lost sight of the moderation, and style &
temper, which ought to characterise all communications,
however informal, between persons charged with impor-
tant national interests. The phrase above alluded to,
as introduced by the British Commissioners into their
letter of 1836, — though it might possibly have admitted
a more favorable construction, — appeared upon its face to in-
timate that they considered the American Consul as les-

possible to the British government and might fairly be regarded as offensive. In letting this view of it in returning the letter which contained it, the Consul exhibited a proper sensibility on the score of national honor and a laudable discretion. Thus far he kept himself in the right, and placed his correspondent in the wrong. Unfortunately, in his part of the subsequent correspondence, he displays other qualities, and reverses, so far as lay in his power, the positions of the parties. As the next communication from the Commissioners, was, by his own admission, inoffensive in point of style, no good reason can be given why it should not have been received in a friendly spirit. Although the Consul is certainly correct, in saying as he does, with great emphasis, in his letters to the Commissioners, that he & they are not formally known to each other in their public capacities, and that there can be, of course, no regular official intercourse between them, there could be no objection to informal communications, either verbal or written, where they appeared likely to promote any object, in which both parties had a common interest. It is well known to all who have any experience in diplomacy or knowledge of general history,

that such communications constantly take place among the Agents at the same residence of different nations who are engaged for the time being in any common cause;— that agents so situated are considered as constituting virtually a sort of permanent standing Committee; that each habitually seeks information and counsel from all the rest as a favour;— and that the rejection of such an offer of such information and counsel as an unproper interference would never be thought of. How naturally such communications takes place in all similar cases, I had occasion to observe in an occurrence that took place while I was at the Havana. It happened that a British vessel was taken by a Spanish pirate out of Matanzas, and that the acting American Consul accidentally received the earliest intelligence upon the subject that reached the Havana. Without stopping for a moment to enquire whether he should not be suspected of exercising an improper surveillance over foreign flags, or impertinently interfering with matters that did not belong to him, the acting Consul immediately communicated the information, which he had received, to the British Consul, and to the Captain General. The Captain General and the Consul, far from regarding this pro-

seeking of an impertinent interference with their official duties. expected the warmest gratitude for it, as for a favor done them. The next morning I found the Captain of a British national ship, then in the harbor, at the office of the Consul, and in consultation with him on the subject.

I am unable to see why a friendly intimation from the British Commissioners respecting the character and operations of a vessel, known to have been engaged in an expedition, denounced alike by the British and American legislation as piratical, should not have been viewed in a similar way. In treating such an intimation as an impertinent interference with his official duties, the Consul lays himself open to the suspicion of being under the influence of some secret motives of an improper character, - although I cannot suppose that he was really governed by any worse consideration than the zeal for national independence, and the peculiar views on the subject of slavery in general, to which I have previously briefly alluded as the probable leading motives of his conduct through the whole of this business.

In making these comments upon the tone of the Consul's correspondence with the British Commissioners, I shall not, of course, be understood as expressing approba-

view of all the proceedings of the British Government in its intercourse with foreign nations upon this subject, — their bills of all the pretensions and proposals. Some of these are of a nature to authorise the suspicion that while a large portion of the persons in England, who have taken part in the effort to abolish slavery and the slave-trade, have been governed by honorable and philanthropic motives, a - mixed portion have been governed by other motives of a far - more questionable character. But, admitting the justice of this suspicion to (any extent) to which it may be thought reasonable, and supposing even, — what in the present case does not appear to be necessary, — that the offer of information made to the Consul by the British Commissioners might fairly be regarded as an improper interference with his official duties, respect for his own Government & humanity, — if not for the Commissioners and the British Government, — should have dictated to him the indispensable necessity of employing in his reply a perfectly decorous and respectful language in regard to both. In the communications between the agents of different nations upon important political interests opprobrious terms, and direct imputations of improper motives are entirely inadmissible. This is a rule which suffers no exception; and the Agent, who improperly violates it, — far from strengthening his case, — as

the Consul seems to suppose that he was doing, — materially weakened it, and placed himself, so far as manner is concerned, — whatever may be the substantial merits of the question, — in the wrong.

§XIV. General Conclusion.

I have thus briefly reviewed the various topics, connected with the abuse of our flag at the Havana and stated, in regard to each, the conclusions that appeared to result from the evidence before me. I am not required by my instructions to make any report upon the complaints that have been made by several shipmasters of supposed improprieties in the treatment which they received from the Consul. I had no opportunity, in the absence of the Consul and of all the parties, and without even the advantage of consulting the Consular papers, to form any opinion upon these ~~complaints~~ statements, other than such as might result from reading the summary statements of some of them which I received from the department, and from some occasional conversations of a general character with persons who had known the facts at the time of their occurrence. Impressions formed on grounds so slight as these, would, of course, be of little consequence, and scarcely deserve to be mentioned, — especially as the case of Capt. Wendell, which seems to

have been thought the most important, — has been brought into the Courts of Justice. I will add, however, that my opinion in regard to these cases, — so far as I was able to form one, — was favorable to the course pursued by the Consul.

I was desirous, while at the Havanna, to find some opportunity of ascertaining by experiment how far it would be practicable to bring the individuals concerned in these abuses of our flag to justice; and had determined, if any suspicious case should present itself, to direct the acting Consul to make the attempt. I inquired daily as the Courts into this, and every other point of interest, but although two or three cases were cleared for the coast of Africa under our flag, I was confidently assured by the acting Consul, in regard to each, that there was no suspicion of abuse or illicit trade.

I am, Sir, with high respect, your most obedient servant.

Washington. D.C. July 31. 1840.

A. H. Everett.

CONSULATE OF THE UNITED STATES OF AMERICA.
HAVANA,

I, *Consul of the United States of America,* **Do Hereby Certify,**

In Testimony whereof, *I hereunto set my Hand, and affix my Seal of office, at Havana, this* *day of* *in the year of our Lord, one thousand eight hundred and* *and of the Independence of the United States the*

No. 22. July
Mr. Ringgold

Washington. D.C. July 21. 1840

Hon. John Forsyth
Secretary of State.

Sir.

I have the honor to submit herewith the portion of the correspondence with the Consul at the Havana, which was placed in my hands in connexion with your note of the 1st. instant.

I am, Sir, your obedient Servt.

A. H. Everett.

Numbers: 29th Nov. 1836 not numbered. 20. 40. 61. 64. 65. 66. 67. 73. 74. 75. 83. 87. 94. 95. 96. 98. 107. 108. 111. 112. 114 & 124.

No. 143. (Havana Consulate)

Washington, July 22. 1840

Hon: John Forsyth
Secretary of State.

Sir,

I have the honor to transmit a leaf which I wish added to my No. 104, as a foot note to p. 9.

I am, Sir, very respectfully,
Your Obt. Servt.
A. P. Nicholas.

House of Representatives U. States.
July 30 1840

To the Hon.ble John Forsyth,
Secretary of State

Sir

I enclose you the Copy of a Report made to the House of Representatives of the United States by Mr. Foland, from the Committee of Commerce, on the 21st of July instant in relation to Complaints against N. P. Trist Esqr Consul of the U. S. at Havanna.

The Report was directed to be printed, together with the Documents and Papers mentioned in the second resolution.

Will you have the goodness, Sir, to cause this office to be furnished with the Copies specified as soon as convenient, that the Report may go to the press at the earliest time possible. —

With great respect, Sir
Your obedient Servant.
S. Burch
Ch. Clk H. R. Rep.

Encl with Mr Burch's letter of 30 July.

In the House of Representatives U. S.
July 21. 1844

Mr. Toland, from the Committee of Commerce, submitted a report, of which the following is a copy: —

The Committee on Commerce to which was referred the petition of certain Shipmasters, Ship owners, and other citizens in relation to the Conduct of N. P. Trist, consul of the United States at Havana, report,

That the inquiry submitted to them by the petitioners is confined to the case of Captain Abraham Wendell Jr: of the brig Kremlin, and that of the crew of the Ship William Cuyp, in support of which the Complainants have referred to the documents on file in the State Department.

Mr Trist being ready on the 22nd of June to proceed with the hearing of his case, the Committee on the following day, caused notice to be given to the leading petitioners in New York, and to Captain Wendell, in reply to which the Committee on the 2nd of July received a letter from one of them stating that they would make every exertion "to furnish the Committee with all the information possible", and stating also, that Captain Wendell was confined with severe illness.

No further information or evidence having been been offered, the Committee have of necessity confined their examination to the hearing of the written statement of Mr Trist, laid before them, and to an examination of the reports of the cases made to the Department of State by him in his official capacity, and to the statements and evidence produced to the State Department by such of the parties as have complained of his conduct. All these documents were transmitted to the Committee by the Secretary of State.

It appears that the charges against the Consul

had been communicated to him, and that an investi=
gation of them was contemplated upon his return to the
United States.

The Committee deem this a case which
ought to be fully investigated by the Executive Department
of the Government, yet as it has been referred to the
consideration of this Committee, they think it their
duty to say, that the documents submitted to them
do not at all affect the character of Mr Trist for
integrity and honor, and they are unanimously of
opinion that no case is presented calling for any action
of the House of Representatives.

It has been impossible for the Committee, under
~~the~~ the pressure of other important duties to go into a
full examination of all the incidents arising out of these
cases, and they therefore refrain from any detailed
statement of the voluminous documents presented
to them.

Another petition has been recently referred
to this Committee purporting to be from American
seamen, who complain that the Consul has com=
pelled them, when on shore at Havana, to board
at the house of an individual named. This allega=
tion is denied by the Consul. The late period at which
this petition was presented prevents the Committee from
going into an examination of its correctness. It is a
proper subject of inquiry by the Executive.

The Committee submit the following
resolutions,

Resolved, That the Committee be dis=
charged from the further consideration of said
petitions;

Resolved, That the Secretary of State
be directed to cause to be made copies of the
documents and papers in the Department of State
relative to ~~the~~ charges against N. P. Trist, Consul

at Havana, in the case of Abraham Wendell Jr. and in the case of the Crew of the Ship William Eggs, and relative to the Complaints made by American Seamen as to their being compelled to board with a particular individual: All those in the Spanish language to be first translated into English, or an abstract of them to be made, and that the same be furnished to the Clerk of this House, and with the petitions referred to this Committee be printed with their Report.

The foregoing report was ordered to be printed together with the papers specified in the Resolution therein submitted.

S. Bell Clk.

H. R. U. S. 16th Rep.

Observations upon the Resolution calling for papers.

Resolution, The papers called for are, in the words of the Reso=
lution, 1st "the documents and papers relative
to charges against N. P. Trist, Consul at Havana,
in the case of Abraham Wendell jr." (A.)

2nd "the documents and papers relative
to charges against N. P. Trist, Consul at Havana"
"in the case of the Crew of the Ship William Tapscott." (B.)

3rd "the documents and papers" "rela=
tive to the complaint made by American Seamen as
to their being compelled to board with a particular
individual." (C.)

[The call provides that all papers in the Spanish language are "to be first translated into English, or an abstract of them to be made."]

Remarks.

(A.) Under this head come,

1st All papers presented by, or on behalf of, Capt. Wendell.

2d All papers "relative to charges against"

~~the Consul, of which "the case of A. Wendell jr."~~
R. P. Trist, in the case of A. Wendell jr."; that is to
say, relative to charges, of which that case was made
the ground or pretext.

Under this 2nd Sub-division come,

1st The New York memorial to the Presi-
dent.

2nd The communications of commander
Babbit to the Consul.

3rd The reply of the Consul to that
Memorial.

4th The replies of the Consul to Commander
B.'s communications.

5th All communications from the Con-
sul to the Dept. of State "relative to charges", of which
the Wendell case was made the ground or pretext.

It is to be remarked of these papers,
that a portion only of them (some of Consul T.'s com-
munications) relate exclusively to the case of Capt. Wendell.
The greater part relate to that case, in conjunction with
others. But, although not exclusively relative to the case
of Capt. Wendell, they are exclusively "relative to charges"
for which that case furnished, in part, the ground or
pretext. — It is further to be remarked, that this case
having been used, conjointly with the case of the William
Tays and a general reference to the general course of the

Consul

Consul, as the basis of sweeping charges against his character, the documents "relative to the charges against the Consul in the case of A. Wendell" of necessarily partake of the same general & comprehensive nature. Had ~~but~~ this case been stated separately & distinctly, and the charges for which it afforded grounds, real or supposed, been stated separately and distinctly, the same separation and distinctness would naturally have been found in the documents to which it has given rise. From the course pursued by the Consul's accusers, however, the documentary matter "relative to the charges in the case of A. Wendell" does not exist in a state relating exclusively to that case, or to the charges, for which, from its nature, it afforded grounds, real or imaginary. The state wherein it exists has been determined by the general and sweeping character actually given to those charges; and ~~it is impossible that~~ the material separation of the matter ~~pertinent~~ pertinent, exclusively, to the case of Capt. Wendell, from matter which relates to other parts of the Consul's official conduct & character, is thereby rendered impossible. The unavoidable consequence is, that a considerable portion of the documentary matter coming under this head, of papers "relative to the charges in the case", will be found to relate to other points than those which the case would have presented had it been properly conducted, and the charges been restricted to those for which it seemed to afford

ground.

ground. The Wendell case, conjointly with others, was the basis of the proceedings of Commander Babbit at Havana; and those proceedings, together with those cases, all conjoined, became the basis of the "charges" against the Consul's character presented in the New York Memorial to the President. Hence, all that occurred at Havana between Commander Babbit and the Consul, or on the part of Commander B., bearing upon the Consul's official conduct; and all the matter received from the Consul, relative to the various charges against his character to which this medley of events gave rise, comes under this head.

(B.) The same remarks apply to this head also.

(C.) The same remarks apply, to a great extent, to this head also. The memorial here referred to brings into view certain "arrangements" of the Consul in the subject of the ~~receiving & shipping of seamen~~ discharge & shipment of seamen: a part of his general official conduct which he considered ~~embraced~~ embraced in the general charges of ~~official~~ misconduct & incompetency, ~~&c~~ which the Wendell & Wm Engs Cases had been cited as the occasion for bringing; and which he therefore deemed it requisite to elucidate.

A. J. D.

D. S. Aug.t
Mr. Ringgold

No. 144. (Havana Consulate)

Washington, Aug. 1. 1840.

Hon. John Forsyth,
Secretary of State.

Sir,

I have the honor now to return the copies of the papers laid before the Department by Capt. Wendell, transmitted to me in your favor of June 13th. 1839. — It will be perceived that the remarks suggested by them have been attached to each, in the form of a foot note: this appearing the most convenient way to the reader, in which they could be commented upon.

In explanation of the delay in returning these papers, I will repeat here what was stated in a recent communication, that it has been unavoidable, owing to the necessity of first putting the Department in possession of the proofs, by which the remarks they required were to be justified.

I am, Sir,
very respectfully,
your obed.t serv.t
A. D. Hill.

Havana Consulate No. 144

Enclosures.

Brooklyn October 19. 1838

Hon: John Forsyth
Secretary of State, of the United States
Washington

Sir,

To you I appeal upon a subject of pain-ful interest, my husband Capt: Abraham Wendell of brig Kremlin of New York, is imprison-ed at Havana by the United States Consul; and I am informed by some of the most respect-able merchants at Havana that Capt Wendell has in no way violated the laws of Cuba, and the Spanish Authorities cannot find anything against him; the Capt. Gen.l of Havana has ex-amined the papers, and cannot discover any violation of the laws. The difficulty originated in a personal quarrel with the first Officer of brig Kremlin, and the U. S. Consul arrested Capt: Wendell, and he had no right to interfere, and he was put put in prison and remains there yet; it is now nearly four months since his arrest, and his family deprived of support by his confinement. My husband has always sus-tained a respectable standing in society and has sailed for the first merchants in the United States, and been often at Cuba and never met with any difficulty ere this; Permit me Hon. Sir to

assure you that Capt Wendell has not violated the laws of Cuba. The American ship masters and merchants who have a thorough knowledge of the whole difficulty will corroborate the above statement. Do Sir, in commisseration to a distressed family consisting of five young children have the case investigated that Capt Wendell may be liberated, and returned to his family.

I am very respectfully
Your Obt. Servant
Maria Julia Wendell.

Remarks by N. P. Tritt. — The above underscorings are made, to point out a most weighty truth, with which this letter is fraught. Mrs Wendell is here, manifestly, the mouth-piece of the captain and his allies. For the exceedingly high value of this otherwise false, and therefore worthless, communication, as an unconscious utterance of the truth, - as an unguarded avowal of the doctrine maintained by Capt Wendell, and the class of ship-masters of which Capt Wendell is a sample, concerning the rightfulness of consular interference, under any circumstances, to protect sailors against masters, & the doctrine upon which they stood, until, finding it suitable to their purposes, they embraced

its opposite very opposite, and stood forth as its most energetic champions] See my Reply to the New York Resolutions. Despatch Nº 141. Encl: 1.

This letter, too, covers the whole ground of the Wendell case. For the truth in regard to the statements contained in it, see, therefore, the docu=ments generally. In regard, above all, to the fi=delity of the picture which represents the American Consul as amusing himself in holding an American ship-master in prison, despite the fact that, "the Spanish Authorities cannot find anything against him, the Capt General of Havana has examined the papers, and cannot discover any violation of the laws," see the two-inch-thick folio record, which Capt. Wendell succeeded in forcing upon those authorities the trouble to make up.

N. P. T.

New York 2d June 1838.

Capt. Abraham Wendell Jr.

Dear Sir,

The Brig Kremlin under your command being now ready for sea, you will proceed to Matanzas with all possible despatch. On your arrival there, you will find letters from our friends Messrs De Bormick and Spalding, of Havana, informing the best that can be done with the Brig in the freighting business. If a freight of four pounds per ton for sugars to Europe, not in the Baltic, we should advise to take it, — If that sum cannot be obtain=ed, we advise to load with molasses, if it can be bought at 3 rls. or less. Should molasses be very high and no freight can be had to Europe, you will then do the best that can be done for our interest, I a] either take mo=lasses on our account to New York or a freight to New York, as you may judge best. Messrs De Bormick and Spalding will provide you with the funds for the purchase of the car=go on our account. Should you load with molasses be particular as to quality, Casks, Guage and Stowage.

With respect
John Peters & Co.

J. O.

Remarks by N. P. Trist. The only possible relevancy of this letter to the case would consist in it's bearing upon the point, whether the owners intended that the vessel should visit Havana. This intention, if ever so clearly proved, could avail nothing in regard to the rights of the crew under the terms of the shipping contract. But it so happens that the tenor of the letter goes to corroborate the inference deducible from the contract, that no such intention or expectation existed. Taken in connection with some other of the enclosures, it only serves to show that Capt. W. took the brig to Havana, in violation of the owners' orders.

The general discretion conveyed by these words [marked [a]] is limited by those which follow. They restrict him to the choice between taking molasses on our acct. to New York, and taking a freight to New York.

Even considering the question as between Capt W. and his employers, the only contingency under which, agreeably to the terms of this letter, he had their consent to his going to Havana, was the contingency of his being informed by Messrs De Bominck and Spalding that this was "the best that can be done with the brig in

the freighting business." The letter of Bauer Bailey & Co., and the extract from a letter of De b. and S, [captain Wendell's enclosure No 6] prove that this contingency did not happen, and that the very reverse did happen. The point is altogether irrelevant, except as going to show the utter recklessness of capt. W's conduct in regard to it as well as to every other point on which it could have any possible bearing.

N. P. T.

Havana 1. August 1838.

Capt. N. Wendell Jr.

Sir,

Your letter of yesterday's date requesting us to pay $500. has been presented to us this morning. We have only to state that we have no funds of yours in our hands wherewith to pay that amount, and the proceeds of the Kremlin's cargo will not exceed the amount of her disbursements, and what we have already advanced for Mess.rs John Peters & Co.e to load the Angeline agreeably to their order.

Respectfully we remain
your Obt. servt.s
De Coninck & Spalding.

Es copia fiel del original
Pablo de Entralgo.

Remarks by N. P. Tritt. This letter shows merely the two facts: 1st That Messrs De C. & S. had no funds of John Peters & Co. in their hands; 2d. that they declined advancing money to Capt. Wendell. They are utterly irrelevant to the merits of the case, except so far as the latter establishes the fact that, from some cause or other, Captain W. had no credit with these Havana correspondents of his owners, to whom he had come consigned.

The first of these facts will be referred to hereafter, when I come to Messrs John Peters & Co's losses. I will take leave of this call of capt. W's for the inconsiderable sum of five hundred dollars, by referring to the testimony of Messrs Spalding and Bruce; [my despatch No. 104 Encls. 2.3.4.] particularly to their replies to queries 76.77.78. 79. 80. in regard to the insane carouse kept up in the jail for celebrating by anticipation the victory achieved over the Consul in bringing upon him the odium of "putting a ship master in jail".

N. P. T.

Havana 2d. August 1838.

Capt. A. Wendell Jr.

Sir,

We are in receipt of your favr of this date, requesting us to advance you $500 on a Bottomry Bond on the Brig Kremlin, which we cannot comply with.

Respectfully, we remain
Yr. Obt. Servts.
De Coninck & Spalding.

Es copia fiel
Pablo de Entralgo.

Remarks by N.P. Trist. Referring to my remarks on the letter immediately preceding, I will here add, that the Bottomry Bond, whereby capt. W. here proposed to raise money upon the property of his owners, is a lien which the law entrusts a ship-master with the power to give in cases of emergency for the benefit of the owner. Unless the money be applied to the necessities of the vessel, it is worthless: a breach of trust on the part of the master who gives, and a fraud on the part of him who takes it. How far the money would

have been expended in this instance – so far as any grounds exist for judging – may be seen by following the reference given in the note preceding.

N. P. T.

Havana August 7. 1838.

Capt: A. Wendell Jr.

Sir,

Your favour of yesterdays date is received, and contents noted. In our first letter to you we stated what we had written to your owners: viz: that after loading the Angeline, we would invest the balance of their funds in Molass=es for the Kremlin. Before we wrote you the 2d. letter, the Angeline had been despatched, and we had ascertained that all the funds we had of Messrs John Peters & Co: had been used in the purchase of her cargo and expenses. And the sale of the Kremlin's cargo will not be sufficient to balance our a/c with them after deducting the ordinary disbursements of the vessel. You inquire what we intend to do with regard to loading the Kremlin for owners' account. — certainly we do not intend to commence loading her under existing circum=stances, without a master on board to receive the cargo, and without knowing what claims may come against the vessel in consequence of the pro=ceeding against you. We expect to hear from your owners in reply to our letter to them on the subject before your case will be concluded, and we have great hopes that one of the house will come out and see what is to be done.

J. O.

Respectfully we remain, yr. obt. servts.
[signed] J De Coninck & Spalding

Es copia fiel
Pablo de Entralgo.

Remarks by N. P. Trist. This letter is, like the rest, utterly irrelevant to the merits of capt. W.'s case. In another point of view, however, - possibly not advertted to by J. P. & Co. when they furnished to him their account of losses, - it is of no small value. It sheds strong light upon the fairness and ingenuousness which presided at the making out of that account.

I have underscored some words in the first part of the above letter; which expresses pretty clearly, to my mind, 1st that it was the intention of the Messrs De C. & S. not to be in advance to Messrs J. P. & Co. - not to advance any funds for the purchase of a cargo for the Kremlin, but to expend for that purpose, only the balance of their funds, [which balance had afterwards been ascertained to be nothing]; 2nd. - that this intention had been formed, and announced to J. P. & Co., at the date of the letter to them, referred to.

If this be true, it follows, that all the items, with a few trifling exceptions, of this account of losses to the amount of five thousand

and twelve dollars and forty six cents, Z founded, as it is, on the assumption, that, but for capt W.'s "difficulties," the Kremlin would have sailed on the 26th of July with a full cargo of choice molasses Z are a fiction: a fiction, in the sense, not of a fanciful, innocent, imagining, but of a deliberate fabrication, into the shape of truth, of matter which they knew to be false!

But, it may be objected, the true cause of the non-loading of the Kremlin is to be found in the latter part of De L. & S.'s letter, where they say, "Certainly we do not intend to com=mence loading under existing circumstances," &c.

Had the first part of the letter been suppressed, and the concluding portion only given, Z and that this was not done we shall see in the course pursued by D. P. & Co. conclusive reason for ascribing ex=clusively to want of calculating foresight, and not to any scruples in regard to departures from truth — this concluding portion might have admitted of such an interpretation.

But, taking the entire letter into view, the determination of the writers not to advance money for loading the Kremlin is, by the first part of it, proved to have been by them fully and conclusive=ly stated on a former occasion; and the concluding part can be understood in no other sense than as an intimation to Capt. Wendell, that that determination

had been corroborated by the consequences of the course on his part, from which they, as his au=thoritative advisers, had done all in their power to dissuade him.

N. P. T.

Capt. Wendell to the Sec: of State. Enclosure N°-10.

To His Exᵗʸ Captⁿ Genˡ.

The undersigned A. Wendell Jr: a native of Salem Mass: U. S. and Master of the American Brig Kremlin now lying in this harbor respectfully requests that your Excellency may be pleased to listen to the following statement in reference to a dispute between the first Officer of the brig Kremlin under my command, and your petitioner, who relying on the justice of his cause presents before your Excellency the follow-ing facts for the truth of which he is ready to produce honest witnesses.

First_ Your petitioner sailed from New York on the 5th: of June last as master of the above mentioned brig Kremlin bound for Cuba, and had on board as first Officer, William Bell, a man then of unknown character, but subse-quently found to be addicted to great intemper-ance, whereby he became unfit to do his duty in a proper and becoming manner, and is pos-sessed of a highly irritable and disagreeable disposition.

Second_ At length we arrived at Matanzas and on the fourth of July my first

Officer the said Wm Bell asked my permission to go on shore for a few hours. His request I granted under the very expres, and well understood condi=tion, that he should return, and be on board again before 4 A. M. of the next day - I stated my reasons why he should be punctual in obeying my orders, First, that my confidence in him was weakened - Second, that I had pardoned him once for being found drunk on board, but would not do it again if he recommitted the same error - and, third, that we were under sailing orders to proceed to Havana, and he must be present to have the vessel ready to pro=ceed at the hour specified for his being on board &c.

Your Excellency - It was my misfortune to find that there was no confidence to be placed in my first Officer again was I deceived! He was not on board to perform his duty - Two hours more I allowed to elapse eer I weighed my anchor.

By the wise laws your Excellency has formed, my Officer, the said Bell, finding he could not re=main on shore without being arrested as a deserter, made his appearance on board my vessel on the 7th inst. and was allowed to remain - here your Excellency will please to observe the length of time

said Bell was absent from my ship, it being the whole of three days and nights, and that, at a time when his services were most wanted.

Third- Your Excellency- the said Bell came on board not as a man fit and ready to do his duty, but enfeebled, and ill, as if from intemperance, and two days after, left off all attention to his duties and complained of being sick- I called a physician who prescribed medicines, and by my attentions he recovered. Even then he could not be grateful, but upon my ordering him to do some light work, he turned round and used towards me, the most vile language, and villainous epithets, and as if determined to take my life, he made a spring on me, and grasping me by the throat with both hands, he sought to strangle me. However, I freed myself and being aware of the mischief that people suffering under "manera potu" often commit, and seeing he had become furious a a lion, I ordered the irons to be brought- In this emergency I ordered him to his station, but he would not obey me, nor allow me to command him, but ran about the vessel, ~~[illegible]~~ raving and swearing and abusing me- 'Twas then I watched an opportunity when he jumped between decks, I closed the hatches over him, deeming this the best method ~~to prevent~~ of preventing

him from carrying his threats into execution or doing other damage. In a few hours he found means of escaping from my vessel, and proceeding on shore. Since then he has been but once on board, and then demanded his baggage to be delivered up to him to be taken on shore. This I could not, and therefore would not do, as by his absenting himself from my vessel, and by his mutinous conduct, he had forfeited them, and moreover he still belonged to my vessel, and had shipped to go the whole voyage: and the voyage was not yet completed.

By the laws of the United States for the better regulations of American commerce it is enacted by section 5th and again enacted by section 7th [to which I refer] your Excellency will observe that I am justified by the laws of my country and by the covenant existing between said Bell, and the owners of the Kremlin, in refusing him his baggage, or paying him any wages. I therefore—

In consideration of the foregoing facts request that your Excellency may be pleased to approve of my conduct, and to grant me the power of arresting the said Wm Bell, and placing him in prison until my departure, and likewise of bringing to punishment any person

or persons

or persons whom I can prove have, or now are harboring him.

Havana 23d July 1838.

A. Wendell.

Remarks by N. P. Trist. The above paper, although, as will be seen on comparing it with the testimony, a tissue of ineffably reckless and malicious falsehood, is for that very reason, of the highest value. It forcibly illustrates the merits of the case on captain Wendell's side, and, what is far more important, the fate which encircles it has, times without number, befallen a defence-less mariner, circumstanced as Bell was, unless he chance to be protected by a consul, so full of insane temerity as to do "more than the consul dare," by braving all that such captains as captain Wendell, and such owners as Messrs John Peters & Co., are capable of. What that is — what the consul proves so audacious as not to turn a deaf ear to the loudest calls of humanity, and not to be regardless of the plainest dictates of duty, exposes himself to, in the various shapes of which revenge or malice, or mendacity, or cupidity are susceptible, the documents of this case afford an invaluable

illustration. It cannot be lost upon the coun=try, or the government.

"And be it further enacted, That the specification of certain powers and duties in this act, to be exercised or performed by the Consuls and Vice-Consuls of the United States, shall not be construed to the exclusion of others, resulting from the nature of their ap=pointments, or any treaty or convention under which they may act."

Thus was it provided by Congress on the 14th day of April 1792.

"In this as in all other cases, Consuls are particularly instructed, while on the one hand they support the masters of ves=sels in the exercise of their proper authority, on the other to discourage and prevent all oppression of seamen by their Officers. Ess=sential object of the Consular appointment is, the protection of this class of our fellow-citi=zens, whose habits of life require a kind of guardianship of their persons and interests in foreign countries, but, at the same time, a strict vigilance over their conduct."

[Consular instructions of 1833.]

"Protection of this class of our fellow-citizens"! "Prevent all oppression"! How?

Suppose I were to state cases illustrative of particular forms under which oppression, —and that, of the most fiendish type— is of every day occurrence under our flag in foreign ports & in ports, at least, belonging to governments under whose sway such things can be, and not be instantly arrested and punished: that is to say, all ports of Spanish America, for one class ;— suppose I were to state such cases, and were then to ask, what is the Consul's line of duty? What measures is he to take? And, when these may be of a nature to require means or instruments, then, by what means or instruments? Would there be a law-yer in our country who could give an off-hand answer, one that should have a defi-nite, precise, practical, meaning in it, and direct the Consul, step by step, in the course he is to pursue? Not one! Is there a book in our language, that furnishes such answer? Not one! I speak it without fear of contradiction. I know that the subject has never received at-tention;— that, in regard to what is, beyond all comparison, the most important of all the functions which could ~~attach~~ be attached to the office, the office is as if it were not.

"To a nation essentially commercial

like the United States, the Consular functions are highly important, and ought to be strictly defined. They are performed in a foreign country, often in collision with the officers of the nation, in which they are placed; and therefore public, as well as private interests, are put in jeopar-dy by their errors or faults.

"In the various acts they are called on to perform in relation to the commerce of their fellow-citizens, they may assume powers injur-ious to their interests, or refuse to act, from ig-norance of their duty, where the case would seem to require it. In most of these circumstances, they have no legal adviser, and no rule pres-cribed by law to guide them in the delicate and important questions that are continually call-ing for their decision. At home, every officer is surrounded with the means of obtaining in-formation and advice; yet, at home, every Officer has his duties prescribed and marked out by law. Abroad, an officer is entrusted with the most important function, out of the reach of control or advice, and is left with, comparatively, no written rules for his guidance. In their absence, he frequently puts such construction on his powers as best suits his interest, and avoids taking any responsibility that is not forced upon him."

"

upon him. No written rule being given to which the merchant or the ship master can refer in his transactions with the Consuls, ~~can~~ constant bickerings are the result, injurious to the interest of trade, and the reputation of the country. This might, in a great measure, be avoided by laws defining the rights and duties of Consuls, establishing a table of fees for their services, and prescribing clearly the duties of American masters, mariners, and merchants, in relation to their Consuls in foreign ports. In all this, our present system is woefully deficient. Two or three meagre laws, and an equivocal reference to the laws of nations, with some usages of uncertain authority, and differing in different ports, being the only guides afforded the parties interested, so that officers most desirous of restraining themselves within the bounds of duty, and of doing all that it requires, know not how to conform to laws of which they are ignorant, whilst those of looser principles find in this uncertainty the means of vexatious extortion."

Such is the picture" of our present system, if one it may be called," drawn by Edward Livingston, one of the most enlightened jurists of the age, in the report as Secretary of State, transmitted by the President to the Senate in

March 1833.

And what are the fruits of this "system, if one it may be called"? How does it practically work? With reference especially to that "class of our fellow-citizens whose habits of life require a kind of guardianship of their persons and interest in foreign countries," and, "the protection" of whom is "our essential object of the Consular appointment." In this respect, its fruits are of a kind that tends to render our flag a by-word, and the Consular office as great a disgrace to our country, as deep an opprobrium to civilization, as are the enormities practised on board our ships; of which, indeed, it is in a great measure the parent. Its natural, and inevitable, operation, operation is to make of the office, to the sailor, a wretched illusion and cruel mockery, a villainous Dead-sea apple that turns to ashes, a toad-stool that proves to be poisonous dust, whenever his parched and famished lips approach it; to captains and merchants, [when of the right sort to make it so] a fine pocket for fees and insults; the former of which shall be sure to ~~xxxxxxx~~ decrease, and the latter to multiply, with every symptom which the Consul may "dare" give that he is a living entity, with a soul and a conscience belonging to it, and fibres

capable of movement at the sight of human beings, struck down like beeves in the shambles, by the hands of those to whose power the Law commits them tied hand and foot.

These are a part of ~~the fruits~~ its fruits! M. Livingston had a stronger conception of them. But, with all the opportunities of knowledge afforded by his long and extensive experience as an admiralty lawyer in our two great commercial emporiums, his conception fell far short of the reality, as it exists under our flag, when flying, as it too often is, at the mast head of a "floating-hell" in the ports of Spanish America; where "the consul "exists for the sailor, to no other purpose so "essential" as that of facilitating the operation of casting him in prison, as Capt. Wendell concludes his petition to the Captain General by asking that Bell shall be, as the alternative to becoming, himself, should he prove so contumacious as to refuse obedience to the captain's demands, an object of bullying insult, and reckless calumny, and "account of loses" on the part of the owner.

And how is it, that all this comes to pass? It already stands explained in one sentence of the foregoing passage of the Secretary of

State's report: "In their absence [of written rules for the Consul's guidance,] he frequently puts such construction on his powers as best suits his interest, and avoids taking any responsibility that is not forced upon him"

Herein lies the whole secret. Here is the text, from which the entire course and theory of Consular existence, as determined by the "system," if one it may be called, "may be spun out, as regularly, and naturally, and completely, as ever cobweb was, out of spider's belly. To do this, 'tis only necessary to ask, who are the forcers of responsibility? and to follow the question whither it will lead. An exercise of this kind will supercede in a great measure the necessity for personal experience in the contingencies of Consular life.

Who, then, are the forcers of responsibility? Who are they, who, under the present "System," have it in their power to force the Consul to take responsibility? Is it the poor sailor, who comes to him with a broken head; broken, perchance, for the offence of asking his discharge when long due, or perchance designedly for the purpose of driving him to desert and forfeit his wages? [See the testimony of W. Shaler, in my despatch No. 105.] What

pretension

pretension can be advance to the posession of such a faculty? How can he compel the Consul to take the fearful responsibility of thwarting and offending the captain? Suppose his cause ever so just, – his oppression and misery ever so flagrant and grievous; and that the Consul turns him off with "I'm sorry for you, but I have no power to protect you." Does the Consul thereby take responsibility upon himself? Does he even incur, [except to his own conscience,] any moral accountability? Can such a course affect him even with public opinion? Suppose a thousand ~~take~~ such tales of wrong and denial of protection, [and many thousand are, while I write these words, being told:] what just ground of reproach would they afford against "the Consul," left, as he is, without any "rule prescribed by law to guide him"? Suppose, even, such rules to exist: what means would the sailor then have to force responsibility upon the Consul? Let him go and tell his story! It will be a "sailor's yarn"; and that will be the amount of it. Does not every body know that Jack is sadly given to both rum and lying? And will not the captain, and the mates too

— unless it should chance to be their case — be ready to bear witness that "the Consul is a gentleman", and that the sailor's story against him [and themselves] "is all a lie"?

Turn we now to the other classes who stand in close relation to the Consular office: to ship-masters, and ship owners, and supercargoes, and consignees, and freighters, and charterers. How stands the case with these? Have they the means to force responsibility upon the Consul? What are the means which they have not? And will these be used to force him to take the responsibility of fulfilling that "one essential object of the Consular appointment", specially pointed out by the Instructions? Will not all their bias be the other way? Can a single step be taken towards fulfilling that duty without exposing all these parties to trouble, and to expense, and to delay? Is not the object of the Consular office, to protect commerce? Are not profits the one, great end of commerce? Are not expenses and delays very death to profits? What duty of a Consul, therefore, is the paramount duty of all, if it be not to "protect his countrymen — from expenses and delays"? And if any Consul should be so blind to this truth as, not only to omit using every possible endeavour to avert these

evils, but actually to be instrumental in occasion=ing them, what clearer proof could possibly exist of his utter unfitness for the Office?

Such is the position of a Consul. No man can bestow a glance upon the subject, and not see that it is so: that let him be faithful to the most sacred of his duties, and if that fi=delity fail to bring upon him a tempest of hate and of obloquy, in which no voice shall be heard in his defence, it can be owing only to the force of the sentiment of justice in the bosoms of the good, — to the power of the law which raises up voices to bear witness to the truth, even among those whose interests have been prejudiced by the course of him against whom the tempest rages.

In the above paper from capt. W. I have underscored two passages: the one, I at the close, I to mark the fate to which Bell was destined — and which I doubt not has been the fate of many an American citizen — had he been without a protector; the other, as deserving attention, on account of it's bearing upon the merits of the memorial, recently presented in the House of Representatives, I see my despatch No. 139. I from "Ferdinand Clark, merchant" and others, disapproving the arrangement for receiving and shipping seamen in the port of Havana."

Here, in this paper of capt. W., the "arrangement" is referred to as "the wise laws Your Excellency has framed" for preventing desertion. The allegation against Bell, connected with this reference, that he was a deserter, compelled by those wise laws to return to his vessel, is proved by the documents to have been a most preposterous, wanton, and malicious invention of Wendell or his backers. With regard to the precise character of those "wise laws", their origin and history, see my despatch No. 137.

N. P. T.

Ferdinand Clark Esqr.
Havana.

Royal Prison 9th
November 1838.

Dear Sir

I was brought here at last and met in the room destined to me Capt. Wendell of the Brig Kremlin your acquaintance. His situation is getting every day worse and worse, the expenses being very considerable, not less than two dollars, or sixty dollars per month.

You are well aware of the slowness in the Judicial Proceedings and his case may perhaps not be decided in a long time, unless some friend of his in the City pushes the matter to a close. You know by what he has told me, how he stands with Deconnick, Cruzat & Co. and that he has no other friend but yourself. He may find himself in a very bad predicament should his Pay to with the Consul continue much longer. How is he going to pay six reales every day his victuals &c I really have taken some interest for him, a Foreigner in a prison and a costly one, distant from his native home and his family, with such gloomy prospects before him and subjects to the results of the endless Traslados, informes &c &c.

He has exhibited and shewn to me, your letters to him, which is the reason of my writing to you on his behalf.

How badly, unwisely the American Consul has acted in not weighing properly the consequences of being the instrument of throw=ing him in such a lonely place, doubly so to a professional man bereft of sympathies, Relations, Friends &ca &ca. It may bring him his death and I have been happy in the midst of my own misfortune, to render him and lend some re=flections, remarks &ca to keep up his spirits and to prevent him from sinking under the melancholy to which he is subject now and then.

Is he not an American Captain, a Gentleman with a large family waiting anxious=ly, tho: in vain to embrace him? Is not this Port one of the most frequented by American shipping, near to the United States, that a new subscription might not be opened again with some chance of success? Really in that are in his company or the persons sleeping with him in the same Piece, seem most strongly in his favour.

Could you not see the Lawyer charg=ed with his business? he is the young man

writing at the Suez Avenidor, sallow complexion, thin_ You would do a great benefit to Captain Wendell in recommending his point. The fact is the first step to be taken should be his liberty. He is owing to the Cantine or nearly one hundred dollars and is threatening him with a new imprisonment when he comes to be released. Pitiful state of the men if some measures are not taken by his fellow Citizens! Should he be a French, German or English Captain his situation would be more certain and his slavery should not be burthensome and be tolerable, as he could depend on reaching his native country and is it not a wonder that an American Master will be abandoned as Wendell is? Not a person comes to see him and certainly he has committed no crime. His differences with the Consul are not motives why he should be doomed to the ill fate that awaits him_ American merchants, Captains of ships and indeed all Citizens from America ought to interest themselves in Captain Wendell's disagreeable state and bring relief to him till he gets over his difficulties_ At least other Foreigners would do it and more so, those Persons or individuals that are acquainted with his circumstances and the causes that have brought

him into this Dilemma.

Forgive the liberty I take and com=mand to

Your Obed.t Hble. Servt.
Franco Xav.r de Lalo.

Remarks by N. P. Trist. For an account of the man who here figures as a not unworthy com=peer of Richard Robert Madden Esquire, "H. B. Majesty's Superintendent of captured Africans," in the capacity of humane-letter-writer to Ferdinand Clark, I refer to my re=ply to the New York Resolutions. [Despatch No. 141] He will be there seen to be the brother of a distinguished Slave-trader and Slave-trade broker, who had been very badly treated by me.

N. P. T.

We hereby certify, that the Brig Kremlin, of New York, owned by us, sailed from New York on or about the 4th day of June 1838, for Matanzas, under the command of Capt. A. Wendell, Jr. After remaining there a few days, she went to Havana, there to load with molasses for New York. Shortly after her arrival there [at Havana,] the Captain, as we were informed by our agents, was imprisoned by the American Consul, in consequence of some difficulty between himself and mate, and, as we understand, was kept in prison several months. The crew was discharged by the Consul, with the exception of the second mate and, we think, one sailor. We sent out a Captain to take charge of the Brig and bring her home. On her return our agents sent us a bill paid the Consul, in which he charged three months' wages paid several of the sailors and their wages to different dates. The sailors returned to New York and called upon us for their wages, saying that they were discharged by the Consul, although they did not wish it, and some, most of them under oath, that they had never received any money from the Consul. We settled their wages, and requested our Agents to call upon

the Consul to refund what he had charged us. He refunded ninety ~~six~~ dollars 87/100, being balance due between the first and second account rendered. His second bill contained charges materially different from the first, as may be seen by reference to the accounts. The Brig was detained about two months and half longer than she would have been if the Consul had not imprisoned the Captain; and the cargo cost about two thousand dollars more than it could have purchased for on her arrival at Havana. It is customary to send vessels to Havana and then to Matanzas, or vice versa, according as the market warrants; and frequently vessels load part at one port, and complete their loading at the other. The annexed account shows the amount of loss sustained by us.

John Peters & Co.

New York, 22d May 1839.

Remarks by N. P. Trist. This certificate has already been the subject of remark by me. Despatches No 133 and 134 I will here merely call attention to the fact, that the individuals whose conscience allowed them to write this certifi

=cate are the same individuals who, on the
21. August 1838, added a postscript to a letter
addressed to me, to say, "There is no doubt in
our minds that captain Wendell is in a
state of mental derangement; and there
=fore think the government should overlook
his misconduct"!

With regard to the discharge of
the crew [which, from this certificate, ap
=pears to have taken place, not merely of the
Consuls own mere motion, but positively a=
=gainst the wishes of the men!] I refer for the
whole truth of the matter, to my despatch
N°134.— I will call attention to the further
fact, that this certificate is N° 14 of a se=
=ries of documents produced by Capt.
Wendell, of which ~~my letter~~ N°3. is my letter,
July 30. 1838, to Fitch, 2nd mate of the Kremlin!
[Despatch N°. 134. Encl^s 1. and 2.]

N. P. T.

Brig Kremlin arrived at Havana 6th July and should have sailed on the 26th July:— did sail on the 6th October.

2 months and 12 days detention		@$900.—	2.160.00
Consuls bill	526.37		
Commissions thereon	13.16	539.53	
Less returned by him	96.87		
Wages paid Mate	90.20	187.07	352.46
Extra cost of molasses, say			2.000.00
2 reals per Kg the actual differ-			$ 4.512.46
-ence.			
Other expences, such as money paid the crew and Captain during the detention &c- say			500.—
			$ 5.012.46

In addition to the above loss, there is a loss in the price of the molasses here, as the quality is much inferior as the season advances.

Remarks by N. P. Trist. This account has already been under consideration, in my remarks upon Capt. W's enclosure No 9. It is there shewn to be false: a deliberate fabrication, contradictory of what the makers knew to be true.

I will now suppose the account to be true, and reply, 1st that the documents of the

case prove twenty times over, that this loss was caused solely by the gross, wanton, and malicious misconduct of their agent, capt. Wendell; 2ly that it would only be an illustration of the natural fruits, to ship-owners, of entrusting their property to such a man, as he is, by the documents, con=clusively proved to be; and 3ly that the natural consequences to others — above all, to the unfortu=nate sailors — are such, that, from the bottom of my heart, I wish that the same loss could befall every ship-owner, every time that, in=stead of employing men worthy of the station, [who are always to be had in our country, al=though not so cheap, nor with such good chance of a profitable loss — profitable to all but the underwriters,] he puts such a man as Abraham Wendell Jr. in a post to which, from it's very nature, no less than from the pro=visions of the law, is unavoidably attached so fearful a power to harrow the soul, to torture the bodies, to peril the lives, and to brutalise the characters of sailors: a power, the wanton, and habitual abuse of which, by one class of ship-masters, is carried to such monstrous and shocking lengths, as to produce in sailors, as a body, an habitual recklessness and despera=tion, and a state of feeling towards masters, as a

body, which tends to render the post of ship-
-master every day more and more dishearten
=ing to that class of men who reflect honor upon
their profession, and to make it a just cause
of wonder how it happens that the most fero=
=cious and fatal outbreaks on the part of crews
are not events of daily occurrence.

N. P. T.

Capt. Wendell to the Sec. of State. Enclosure No 16.

We, the undersigned seamen on board the Brig Kremlin, of New York, on her late voyage to Matanzas and Havana, do solemnly, sincerely, and truly swear that we were detained at Havana, by the American Consul, twenty three days, as witnesses, in the case of Capt Wendell; and that Jame Low. David Post, Charles Miller, and Jack, a Swede, were also detained as wit=nesses the same time; that we were all dis=charged by the American Consul; and that we have never received from him or any Agent of the Brig Kremlin, any compensation for our services, other than the advance at New York previous to sailing, and the small amounts advanced by Capt Wendell; and, as far as our knowledge extends, that no one received any money from the American Consul, and that we were all discharged on the 30th day of August, 1838, by the Consul.

Henry M. Savage
Alexander his X mark Wact

Sworn to this 4th day of
October 1838, before me
Thomas Graham
Comm. of Deeds, &c,

United States of America

City of New York,
State of New York } ss.

Be it known to all whom it may or doth concern, that, on the day of the date hereof, before me, David Higgins, a public notary, in and for the State of New York, duly commissioned and sworn, dwelling in the said City, personally came and appeared Charles Williams, an American seaman, and being by me duly sworn, did depose as follows, viz: That about the latter part of May last, he shipped on board the American Brig Kremlin, of this City, and bound to Matanzas, and that he did so proceed and arrived at Matanzas, where the said brig remained about eight days, and proceeded from thence to Havana, being under the command of Captain Wendell, and after laying at Havana, a few days, that the said master, was committed to prison by the American Consul at Havana. And about eight days after the said master was so committed to prison, the deponent, together with all his shipmates & with the exception of the 2nd: Mate & were all taken out of said brig by order of the said Consul, and remained at the City of Havana about twenty five days, after being taken out of said Brig Kremlin;

and that the said deponent, as well as the rest of the crew, frequently applied to the said Consul for the payment of their wages and the extra pay that was due them for being discharged in a foreign port, in conformity with the laws of the United States, and that the said Consul did always, when so requested, say that he would not pay any of their wages, but they must recover the same from the owners on their return to the United States; and deponent further says, that he did not at any time, nor ever has received any part or portion of his said wages nor extra pay for being discharged as aforesaid from said Consul; and that he the said deponent verily believes and has no doubt that the rest of the crew of said Brig did not receive any thing more than himself from the said Consul.

Charles Williams

Witness:

D. Higgins

In testimony whereof, I have hereunto subscribed my name, and affixed my notarial seal of office at the City of New York aforesaid this twenty first day of March, A.D. 1839.

David Higgins
Notary Public.

J. O.

Remarks by N. P. Tiitt. Let these affidavits be read, and let the reader note well the impression made upon his mind concerning the Consul's character. Next, let him inform himself of the truth, as shewn particularly in the docu=ments of my No. 134; and then let him indulge in wonder at the fact, that the individuals who had the conscience to be instrumental in the getting up of these affi=davits, and the face to appear at their presen=tation to government, were individuals to whom the truth of the matter was known!

The first of the two affidavits is dated Oct. 4. 1838; the second, March 21. 1839. Even at the earlier of these dates, my letter of Sept. 15, to captain Bazneau had probably reached them. At any rate, it is six weeks after they had become sufficiently informed of the nature of the busines, to write to me, "there is no doubt in our minds that Captain Wendell is in a state of men=tal derangement; and therefore think the government should overlook his misconduct!"

In these affidavits, the men are made to tell, as a thing highly important to

be

be known,— as a fact which the points of the case required should be established and brought out against the Consul with all the solemnity of an affidavit,— that they had not received any wages from him! Divest this solemn testimony of this one fact, and what does it amount to? What becomes of its power to insinuate against the Consul a charge of the dirtiest knavery of which a Consul can be guilty,— the cheating of a sailor out of his wages? And yet, John Peters & Co. were at that time fully apprized of the whole truth of the matter. They knew that the men had received no wages from the Consul; and they knew, too, the reason why: to wit, that down to the end of August, when the affidavits state that their detention at Havana terminated, the Consul had received no wages for them from any agent of John Peters & Co.. In the Consul's letter to Fitch, they had, under his own hand, both the fact and the reason. In his letter to their agent, Captain Carneeu, and the accounts with Cruzat & Co., they had the proof that the men could not have been paid by the Consul: since their departure took place about the end of August; and even the liquidation of their

wages, upon the principles fixed by the Consul in his letter to their agent of Sept.r 16.th, did not take place till about the end of that month.

One word more. The certificate of John Peters Nº. 2 [Capt. Wendell's encl: 14.] states that the men informed them that they had been taken out of the vessel by the Consul against their consent, — "discharged by the Consul, although they did not wish it," — those are the words! Now, here are the affidavits of the men! Let them be sifted, to see whether the sailors could be got to come up to this mark. No! it was too preposterous a falsehood for any lips but those by which it has been uttered. The first affidavit comes no nearer to it than, "we were all discharged by the American Consul:" an averment applicable to every sailor lawfully discharged in a foreign port; to be discharged by the Consul, or before the Consul, being used indifferently. Even the second, drawn up, as it is, with evident care, comes no nearer to it than "we were all taken out of said brig by order of the Consul;" which, on reference to Nº 134, will be seen to be the truth,

although in a sense directly the reverse of that expressed in the certificate of John Peters Hº. They were, at their own request, twice conveyed through their convoade Henry M. Savage, delivered from unlawful detention on board the brig.

That Messrs John Peters Hº are fully worthy of being owners to such a captain as Abraham Wendell Jr, who, after perusing these documents, will pre=tend to call in question?

N. P. T.

Rec'd Aug.
4th 1840

No. 145 (Havana Consulate)

Washington, August 4. 1840.

Hon: John Forsyth
Secretary of State.

Sir,

I have the honor to transmit, as belonging to the series of documents arising out of the cases of Captain Wendell & others, the enclosed letters, [Enclosures 1. to 4. & Sub-Encl: 1.] which, with the exception of the first, will be seen to have arisen in consequence of the view taken by you in regard to the quarter to which such requests as that contained in my No. 133 should, in the existing posture of the business, be addressed.

I am, Sir, very respectfully,
Your Obed't Serv't.

J. P. Hill

Havana Consulate No. 144. Enclosure No. 1.

Washington April 11th 1840.

Sir

Apprised by the Secretary of State that the Committee on Commerce have been charged by the House of Representatives with the investigation of certain accusations against me as Consul of the United States at Havana, in re=gard to the treatment of ship-masters and Sea=men, I beg leave to inform the Committee that on my return [probably in the course of the en=suing week] from Baltimore, where my attendance is required by the Circuit Court, I shall remain in this City and hold myself in readiness to fur=nish to the Committee any elucidation of the sub=ject, which, in their judgment, the ends of justice may require.

I am, Sir, very respectfully,
Your Ob: Servt,
[Signed] N. P. Trist.

Hon: Edward Curtis,
Chairman of the Committee on Commerce
House of Representatives.

Havana Consulate No. 144. Enclosure No. 2.

Washington, June 2. 1840

To the
Hon: Edward Curtis,
Chairman of the Committee on Commerce
House of Representatives.

Sir,

Justice to the subject now before the Committee, in consequence of the accusation against me as Consul at Havana, brought by the meeting of ship-masters and ship-owners at New York, requires that some testimony be taken in regard thereto.

I beg leave therefore, to address to the Committee the following requests; the latter of which will be seen to have for its object the avoiding of needless delay, so peculiarly important at this advanced period of the session.

1st. That the Committee obtain from the House authority to call for persons and papers, and to issue commissions for taking testimony.

2nd. That the Chairman be authorized

and instructed by the Committee, upon applica-
tion from the Consul at Havana, or from
Captain Wendell, or from any other person
who may have complained of injustice at
the hands of said Consul, forthwith to issue
such commissions in the name of the Committee,
and deliver them to such applicant; and that
all commissions which are to be executed in
the City of New York shall be addressed to the
Recorder of said City.

I am, Sir, very respectfully
Your Ob: Servt:
Signed N. P. Trist.

Havana Consulate No. 144. Enclosure No. 3.

(Copy)

House of Representatives,
June 5. 1840.

Sir,

I have received your note of the 2d inst., requesting that application be made by the Committee of Commerce to the House of Representatives for certain powers in respect to taking testimony. So soon as it shall be in order to make that application, with the consent of the Committee, I will make it.

Very respectfully,
Yours
Ed. Curtis
Ch. Commee on Commerce.

To
N. P. Trist Esq.

Havana Consulate No. 144. Enclosure No. 4.

Washington, July 2. 1840.

To the Hon. Edward Curtis
Chairman of the Committee on Commerce,
House of Representatives.

Sir,

On the 2nd ult., I had the honor to address to you a letter for the purpose of procuring the requisite preliminary steps to the issuing of commissions under the authority of your Committee, for the taking of testimony. In the hope of early action on the subject, and in order that the business might be proceeded in, without a moments delay, I wrote at the same time a second letter, which I purposed to deliver so soon as you should be invested with authority to comply with the request conveyed therein.

The near approach of the close of the session precludes the hope that the purpose for which the commissions were desired by me can be fulfilled before the adjournment. Still, I consider it highly desirable that it be not frustrated.

To prevent this, I beg leave to add to the re-

=quest made in my letter of the 2nd., replied to by your note of the 5th ult., the further request, that you submit for the consideration of the committee the propriety of passing an order to the following effect viz: that all commissions issued to take testimony shall be returnable to the Clerk of the House, whose duty it shall be to allow to the parties interested authenticated copies of the same: they paying the cost of transcribing. the same.

Should this suggestion meet the views of the committee, it will perhaps be requisite that the suggested application to the House for the authority to issue commissions be so modified as to embrace authority to pass such an order.

The first of my two letters of the 2nd ult. commences thus: "Justice to the subject now before" "the committee, in consequence of the accusation" "against me as Consul at Havana, brought by" "the meeting of ship-masters and ship-owners at" "New York, requires that some testimony be taken" "in regard thereto." — My meaning is expressed at greater length in the second of those two letters. I therefore now enclose it: omitting only the enclosures therein referred to; which, upon subsequent reflec=tion, I have concluded not to trouble the committee with.

I am, Sir, very respectfully
Your Ob: Servt:

Signed N. P. Trist.

Havana Consulate No. 144.

Enclosure No. 4.
Sub-Enclosure No. 1.

Washington, June 2. 1840.

To the Hon: Edward Curtis,
Chairman of the Committee on Commerce,
House of Representatives

Sir,

The vindication of my character from the aspersions which it has become the duty of the Committee on Commerce to form a judgment upon, and the nefarious character of which — in their origin and their progress — your examination of the papers must already have conveyed to your mind some, although a very inadequate, conception of I requires in the first instance that the charges brought against me be refuted.

To this easy task, I already over fulfilled, I might my labor be restricted, were it not for the very extraordinary character of the proceedings by which it has been sought to destroy me. Of the number of my fellow-citizens who have taken part in those proceedings, the great mass have, I doubt not, been actuated by motives, not only blameless but praiseworthy. In regard, however,

(9.)

to the few with whom they originated, this is far from being the case. Of them, the very reverse is true.

This movement, as is well known to our countrymen and to the other foreigners of the English-speaking race, resident at Havana, is the work of a conspiracy, altogether without a parallel in the annals of our Government; and to which, for the flagitiousness of its members, and the recklessness with which they have sought to compass their end, a match would vainly be searched for in the records of selectest villany.

Without a demonstration of this truth, without the proof that, not only the charges against me are untrue, but that, in their origin, they are mere fabrications of malignity and mendacity, in their intensest concentration, — my vindication would fall very far short of what it ought to be, and shall be. That a single human being, of decent character, who had enjoyed opportunities of knowing mine, should be a believer in those charges, would, of itself, be an imputation upon it. No such imputation rests upon it. This, I assert. This, it is my right to make a part of the issue which has been forced upon me; and to demand, at the hands of those entrusted with the present scrutiny, all needful aid in obtaining the proof of.

To do this is likewise my duty. Were

it

it merely for the bearing of this truth upon my indi=
vidual Self, I might remain, — I should remain, —
content with the ample materials already secured.
But a higher duty than that of Self-defence has
been cast upon me. The cause of Truth, and the stake
which my Country has in the faithful discharge
of public trusts, alike demand that I faint not
at the work appointed me. Already has the toil
been great; but it is not yet ended. This cabe
must be made fully known. It shall be. Its
depths must be revealed to the public eye. The
light of day shall be made to shine upon them.
Within, lies hid a thing too precious to be suffered
to pass unnoticed into the oblivion that awaits
the unimportant subject to which accident has
attached it: A century might elapse, and the
history of our Government afford no other
equally impressive attestation of what it deeply
concerns my country should be known and felt
by her Sons, — That, against every odd which
can be brought to bear upon him by unbridled
mendacity, endued with all the potency that the
most wanton perversion of freedom of the press
can impart, the Servant of the American Peo=
ple may do his duty, and put unfaltering
trust in the eternal ordinance, — Truth shall
prevail.

Un=

Under this conviction of duty, it is, that I beg leave to address to you my request, that commissions do issue forthwith, to take the testimony called for by the enclosed papers, numbered from 1. to 4.

No. 1. will be seen to relate to some testimony wanted at the hands of Messrs. John Peters & Co. of New York, by whom captain Wendell has been furnished with a certificate against me. It is an extract from a communication addressed by me to the Secretary of State, for the purpose of obtaining the desired testimony through the agency of that Department. This, he has declined to afford, upon the ground that the subject is now in the possession of your Committee.

I am, Sir, very respectfully,
Your Obt. Servt.

N. P. Trist.